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**The Courtroom Trial Sequence in Hollywood
Cinema,
1934-1966**

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**A thesis submitted in partial fulfilment of
the requirements for the degree of
Doctor of Philosophy in Film and Television Studies**

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I wish to dedicate this thesis to the memory of my grandparents, Stanley and Sandra Hughes.

Declaration

I hereby declare that this thesis is my own work and has not been submitted for a degree at any other university.

Patrick Pilkington

Abstract

This thesis examines representations of the courtroom trial in Hollywood cinema produced between 1934 and 1966. The primary method is close textual analysis, which has been neglected in previous work on trial sequences in cinema. However, I argue that a rigorous engagement with both the conventions of the courtroom trial form and individual films' use of these conventions requires close attention to the text.

The introductory chapter identifies the dominant conventions, meanings and ideology underpinning Hollywood representations of the courtroom trial by looking at the treatment of space, character, procedure and drama in a number of films produced between 1957 and 1962 that serve as a representative sample of the conventions of trial representation in Hollywood cinema. I conclude that the narrative scenario of the courtroom trial tends to dictate a set of formal strategies that respect and affirm the American adversarial trial system. However, I also use this chapter to begin mapping out the ways in which individual films are able to nuance their representation of the courtroom trial despite its multitude of fixed components.

My subsequent chapters examine how different genres and modes inflect the dominant representations of the courtroom trial as I look in detail at trial sequences in, respectively, the social problem film, the woman's melodrama and film noir. This method involves firstly engaging with existing criticism on each genre and considering how previous definitions and identified conventions, meanings and representational strategies might be said to affect that particular genre's representations of the courtroom trial.

My second chapter examines representations of the courtroom trial in the social problem film, which I argue cleaves relatively closely to the representational model outlined in my introductory chapter. However, through close readings of two case studies, *Dust Be My Destiny* and *Pinky*, I also demonstrate the differences in how both films handle the didacticism and resolution that the trial form offers the social problem film, and identify competing voices in the text that complicate what could be viewed as a solely affirmative depiction of the court system. My third chapter examines representations of the courtroom trial in woman's melodrama, employing as primary case studies *Peyton Place* and *Madame X*. My analyses of these films demonstrate how the female-centred melodrama can, to different degrees, challenge the patriarchal structures of the court by emphasising the female protagonist's viewpoint. My final chapter looks at courtroom trial representations in film noir. I provide close readings of trial sequences in *Stranger on the Third Floor* and *The Lady from Shanghai*. Here I argue that noir's use of the courtroom trial exemplifies the genre's oft-situated difference from conventional forms in Hollywood cinema of the period. Noir trials consistently challenge notions of the adversarial trial system as the correct one for seeking justice.

Introduction

For a long time, the cultural picture of the courtroom trial has been rooted in its filmic representation. The editors of *Cahiers du Cinéma* refer to the trial as ‘a classic feature of Hollywood cinema’ as early as 1969.¹ Carol Clover locates an increasing presence of the trial sequence in early talking pictures, noting that MGM’s first dramatic talkie was a trial film (*The Trial of Mary Dugan* [Dir: Bayard Veiller, 1929]).² This is understandable given that dialogue might be considered inherent to the trial form (not only talkie, but oft-considered “talky”), but Clover traces its origins back even further, to early silent cinema (*Falsely Accused!* [Dir: G.W. Bitzer, 1908]). Thus as Hollywood cinema entered the 1930s, the filmic trial was already an established convention, one that proliferated in the following decades. A particularly malleable form, the courtroom trial appears in Hollywood musicals (*Gentlemen Prefer Blondes* [Dir: Howard Hawks, 1953]), comedies (*I’m no Angel* [Dir: Wesley Ruggles, 1933], *The Awful Truth* [Dir: Leo McCarey, 1937], *Adam’s Rib* [Dir: George Cukor, 1949]), Westerns (*Broken Lance* [Dir: Edward Dmytryk, 1954], *Valerie* [Dir: Gerd Oswald, 1957]) and fantasies (*Miracle on 34th Street* [Dir: George Seaton, 1947]).

Yet despite this longstanding awareness of the trial as a well-worn convention, there has been very little examination of it within film studies. This is perhaps because of its exemplification of convention. The trial is a necessarily limited form, its patterns of representation and development bound to a particular

¹ Editors of *Cahiers du Cinéma*, ‘John Ford’s *Young Mr Lincoln*’ in Philip Rosen (ed.), *Narrative, Apparatus, Ideology: A Film Theory Reader* (New York: Columbia University Press, 1986) p. 471.

² Previous talking pictures had been produced by the studio, but they had all been entertainments in generic frameworks (the musical, fantasy) that rendered the use of spoken dialogue spectacular.

setting and procedure that we associate with the “real life” courtroom.³ These imposed limitations may seem off-putting for critics; how interesting can a trial scene possibly be? But looking at the trial affords the critic several opportunities: to identify and interrogate the conventions of a form we recognise *as* conventional but tend to neglect; to consider how these conventions have been utilised, subverted and problematised across a range of Hollywood films, genres and styles; and to examine the subsequent meanings produced, particularly as they pertain to Hollywood’s constructions of American law and justice.

This thesis examines the representation of the courtroom trial in Hollywood cinema between the dates 1934 and 1966. I employ textual analysis of a number of trial scenes spanning several genres, including the trial film (or courtroom drama), the social problem film, the women’s melodrama and film noir. This methodology addresses what I maintain has been a persistent failing of previous criticism on trials in cinema sufficiently to consider in detail the textual aspects of trial depiction. This lack strikes me as particularly significant given the aforementioned degree of fixedness of many of its formal elements. This fixedness makes the trial scene the ideal convention for examining what differences in meaning are wrought by the specific choices made in each film. Even the slightest term of difference proffers a new meaning to what is considered a standardized, immutable convention. It is this perceived fixedness that also permits the thesis to act as a critical intervention in the areas of both *mise-en-scène* and genre criticism within film studies, the details of which I will return to shortly.

³ Audiences tend to overlook the degree to which the conventions of trial representation have been largely intertextually constructed; we assume the plausibility of a trial scene on the basis of its adherence to the conventions set into place by other films.

I have employed my date range for a number of reasons that will overlap as I explain them. Beginning with 1934 allows me to consider uses of the trial scene from the point at which the Production Code Administration censorship guidelines began to be stringently enforced. These guidelines imposed a limitation upon representations of the trial during this early period. The initial rule regarding the law ('Law, natural or human, shall not be ridiculed, nor shall sympathy be created for its violation'⁴) is followed by an explication that namechecks the court:

The courts of the land should not be presented as unjust. This does not mean that a single court may not be presented as unjust, much less that a single court official must not be presented this way. But the court system of the country must not suffer as a result of this presentation.⁵

The ambiguities that result from the language used here has meant that rendering the exact boundaries of this guideline were difficult, and it is beyond the remit of this project to consider the exact role played by censorship in the trial representations that were screened. Nevertheless, Francis M. Nevins views the period from 1930 to mid-1934 as 'juricinema's first golden age',⁶ identifying a distinct pattern of trial representation, pivoted around the figure of the shyster lawyer, that he argues was ended by the strict enforcement of the Production Code. This suggests that the Production Code imposed certain limits on how the trial scene could be represented in film, and I am interested in exploring what was possible within those limits, within specific generic contexts. My case studies will consider the degrees to which individual films and film genres were able to critique

⁴ The Motion Picture Production Code of 1930; quoted in Jack Vizzard, *See No Evil: Life Inside a Hollywood Censor* (New York: Simon and Schuster, 1970), p. 367.

⁵ *Ibid.*, p. 377.

⁶ Francis M. Nevins, 'When Celluloid Lawyers Started to Speak: Exploring Juricinema's First Golden Age' in Michael Freeman (ed.) *Law and Popular Culture* (Oxford: Oxford University Press, 2005), pp. 109-131.

the law and the adversarial trial system during this period, moving from a consideration of the broadly respectful approach identified in my first chapter to the varying types of challenge and critique evidenced in the later chapters. Finally, for reasons that I will elucidate in my conclusion, I argue that the chosen date range contains the greatest concentration of courtroom trial scenes (as we shall see, of a certain type) in the history of Hollywood cinema.

Due in part to my use of textual analysis as a primary methodology, I have attempted to employ as case studies trial scenes that share a number of essential features. All of the trials analysed take place in United States courtrooms that operate within the nation's adversarial system. Of the six major case studies I analyse in my final three chapters, five depict criminal cases and one a civil case. All of the five main criminal cases are murder trials.⁷ Beyond the trial films considered in my first chapter, all of my major case studies place a lead character in the defendant role, thus rendering all of the central identification figures outsiders to the courtroom proceeding. The case studies in my social problem and melodrama chapters, with the exception of the first of two trials depicted in *Dust Be My Destiny* (Dir: Lewis Seiler, 1939), consist of climactic narrative courtroom trials. All case studies appear within dramatic rather than comedic contexts and each trial is treated as a serious event within the diegesis.

These choices of corpus have been made in part because they reflect the dominant narrative contexts within which significant trial scenes appear in films of

⁷ This imbalance is a reflection of the dominant narrative contexts within which the trial is employed across Hollywood cinema of this period; as Greenfield et al. note of filmic trial depiction 'Crime dominates. Within crime, murder dominates'. [See Steve Greenfield, Guy Osborn, and Peter Robson, *Film and the Law: The Cinema of Justice* (2nd edn; Oxford and Portland, Oregon: Hart Publishing, 2010), p. 25.]

this period. The embedding of a trial narrative within a broader generic and narrative framework often involves placing characters unfamiliar with the processes of the court into the trial scenario, a contrast from the legal professional-centred case studies of my first chapter that prioritises a point of view divergent from the legal viewpoint. I have decided not to deal with comic courtroom scenes (despite the many pleasures and rewards of the comedic trials of this era) because I again wish to set certain tonal parameters around the contexts in which my case studies appear. Ensuring that each trial is treated “seriously” by the film identifies a parameter to my study while also allowing me to demonstrate the range of possibilities permitted within this limitation. For example, I believe that the parodic and exaggerated inflections of trial representation one would immediately think could be displayed through recourse to the comedic courtroom are also exhibited in the trial scenes that I analyse in my noir chapter.

My reasoning for looking at inflections of the trial convention through the prism of genre also warrants explanation. The issue of genre is one that I deal with across the thesis, considering at different points various definitions and debates surrounding the term and its application. I wish to establish here that my own use of the term genre is one that emphasises hybridity and overlap. I work from the assumption that all Hollywood films are hybridized forms with claims to multiple genres. This approach is relatively neglected by much academic work on film genre, which, as Deleyto notes ‘is still centrally concerned with whether a film belongs to a genre or not’,⁸ and which is inclined to view genre hybridity as a phenomenon specific to post-classical Hollywood. This inclination is challenged by

⁸ Celestino Deleyto, ‘Film Genres at the Crossroads: What Genres and Films Do to Each Other’ in Barry Keith Grant (Ed.) *Film Genre Reader IV* (Austin: University of Texas Press, 2012), p. 220.

Janet Staiger, who argues against the notion of classifying classical Hollywood genres as pure, viewing the majority of mainstream Hollywood films as instead ‘inbred’ products that contain multiple generic registers.⁹ Staiger argues that, rather than continuing with the impulse to categorise and classify, ‘the most valuable critical contribution that can be made’ to film genre is ‘to analyse the social, cultural, and political implications of pattern mixing’.¹⁰

I believe I provide such a contribution through this research. Although Staiger differentiates the ‘inbred’ mode of genre mixing within mainstream Hollywood cinema from her concept of the ‘internal hybrid’ (in which mainstream genres are utilised by marginalised and independent filmmakers), the notion of the internal hybrid using genre mixing to ‘dialogue with or criticise the dominant’ applies to the uses of the trial form I analyse here.¹¹ In my case studies, dominant patterns of trial representation, consolidated by the mid-1930s, inscribed into viewer expectations of the trial sequence, and entailing a specific ideological position, mix with the generic structures of the social problem film, woman’s melodrama or the film noir. It is in examining the features and results of these mixtures that this thesis explores existing film genre theory. I have chosen to analyse a number of case studies incorporating four generic frameworks that are broadly distinct, and which bring out different key areas of discussion, but which also tend to hybridization and can be viewed as modalities as much as genres, a selection which coheres with my approach to genre. These are the trial film, the social problem film, the woman’s melodrama and film noir. Each brings out

⁹ Janet Staiger, ‘Hybrid or Inbred: The Purity Hypothesis and Hollywood Genre History’ in Barry Keith Grant (Ed.) *Film Genre Reader IV* (Austin: University of Texas Press, 2012), p. 215.

¹⁰ Ibid.

¹¹ Ibid.

different areas for discussion in terms of their particular relationship to the broader conventions of trial representation, and each produces, in its interaction with the trial form, a new pattern of textual features that is, overall, more stable and consistent than the results of attempts to classify “pure” examples of the given genre.

The perceived rigidity of the trial form also permits this thesis to act as an intervention in *mise-en-scène* criticism. Adrian Martin has recently discussed the concept of ‘social *mise-en-scène*’, a way of looking at film style that he considers an ‘overlooked path’ in film studies.¹² I believe that Martin’s conceptualisation of examining narrative scenarios in terms of how they relate to wider codes and conventions of social life can be tested through application to the structuring elements of the trial scenario. Martin argues that:

These situations [...] are at once inherently cinematic and inescapably social. They are cinematic because games can be played with them [...] And [they] are social because we know and recognise them in the world beyond cinema; they form a sort of omnipresent theatre of everyday life. Whether as material for cinema or the stuff of the quotidian world, certain, specific rules are involved, and sometimes explicitly invoked: habits, rituals, prohibitions great and small, punishments if infringement of the code is too great.¹³

The concept of ‘social *mise-en-scène*’ encapsulates how I believe I attend to the trial scene in cinema, through paying attention to the boundedness of its status as a public space with rigidly ordered codes of being and communicating, and examining how films navigate these codes. Once again the perceived rigidity of the trial form, with its rules, rituals and necessarily formulaic development, can be considered as an opportunity to explore how this familiarity and fixedness is played

¹² Adrian Martin, *Mise En Scène and Film Style: from classical Hollywood to new media art*, (Houndmills, Basingstoke, Hampshire; New York: Palgrave Macmillan, 2014), p. 131.

¹³ *Ibid.*, p. 129.

with, modified, subverted, challenged, or transformed, at the levels of both choices made in individual films and the aforementioned ‘pattern mixing’ of the trial form with a range of Hollywood genres.

I begin the thesis with a review of literature that covers the field of existing criticism on representations of the trial in Hollywood cinema. The majority of this material comes from the field of ‘law and film’ criticism and is predominantly written by legal scholars. I position myself within this literature, identifying what I see as the gaps in the field’s primary methodologies, and the need for and features of my critical intervention. This material also introduces terminology and arguments that will be applied to my own case studies.

My first two chapters consider two groups of films that share what I argue is a broadly affirmative depiction of American law and justice, one that is identified through their representations of the courtroom trial. The first chapter looks at the films of American trial cinema’s so-called golden age of 1957-62: *Twelve Angry Men* (Dir: Sidney Lumet, 1957), *Witness for the Prosecution* (Dir: Billy Wilder, 1957), *Anatomy of a Murder* (Dir: Otto Preminger, 1959), *Compulsion* (Dir: Richard Fleischer, 1959), *The Young Philadelphians* (Dir: Vincent Sherman, 1959), *Inherit the Wind* (Dir: Stanley Kramer, 1960), *Judgment at Nuremberg* (Dir: Stanley Kramer, 1961) and *To Kill a Mockingbird* (Dir: Robert Mulligan, 1962). These films as a group continue to typify for audiences both how the Hollywood trial scene looks and what it means. For this reason, I use them to survey the dominant narrative and stylistic conventions of trial depiction in Hollywood cinema. This survey is structured around a number of the fixed elements of the courtroom trial form - its setting, its characters, and its procedural development - considering how formal and dramatic patterns emerge from and interact with these

standardized foundations. I illustrate these patterns with detailed examples from the films, ones that balance an awareness of their exemplification of convention with the specificity of their use within a film's particular contexts. I identify in the golden age trial film grouping a set of strategies that are broadly respectful and reflect the films' belief in a normative model of American law and justice.

In my second chapter, I consider the representation of the trial in two social problem films, *Dust Be My Destiny* and *Pinky* (Dir: Elisa Kazan, 1949). Building on existing literature on the social problem film, I suggest that the trial scene in these films functions as part of the genre's recurrent project of presenting possibilities for social amelioration through recourse to the United States' dominant structures and institutions. Working from a liberal humanist perspective, both films depict the plight of a marginalised individual who experiences social prejudice. The climactic trial scenes function in part to resolve the social problem of prejudice by demonstrating the impartiality and rightness of the court system. Nevertheless, despite the broad affirmation of the court, other competing voices emerge from the text during these trial scenes that gesture towards the more overt challenges to the legal point of view that are foregrounded in the subsequent case studies. *Pinky* especially is revealed to contain an ambivalence towards the courtroom resolution that signals a less affirmative and more complex response to the American court.

My third chapter deals with the trial scene in the women's melodrama, once again analysing in detail the climactic trial scenes of two films: *Peyton Place* (Dir: Mark Robson, 1957) and *Madame X* (Dir: David Lowell Rich, 1966). These films emphasise the gendering of the court's dominant structures of discourse, presenting a clash between the female point of view (one that is aligned with the emotional life of the female protagonist defendant) and the masculinist legal point of view. In

contrast to *Pinky*, which also places its female protagonist in the defendant role in a climactic trial (and elsewhere draws upon the conventions of the women's melodrama), these films feature female defendants who have committed the crime for which they are on trial, but who refuse to disclose key information, rooted in their emotional lives, to the patriarchal courtroom. Whereas *Peyton Place* negotiates these conflicting points of view and eventually authorises the court's gendering by giving a climactic speech to an authoritative male figure, *Madame X* aligns itself fully with the female point of view, affirming the form of justice embodied by its female protagonist, and maintains its challenge to the masculinised constructions of law. I demonstrate that both of these films present their challenge to the court's underlying structures through ruptures to the conventions of trial representation outlined in my first chapter, by including formal elements deemed excessive within the trial setting and by emphasising a close alignment with the melodrama's gendered point of view structures.

Finally, my fourth chapter looks at the courtroom trial in film noir, a genre that frequently presents the most overt and sustained critique of the courtroom convention. I map out how we can formulate the interaction of courtroom convention and the strategies of noir by considering the field of noir criticism, specifically work which attends to noir's difference from "conventional" forms in Hollywood cinema, before looking briefly at the oblique trial scenes of *Scarlet Street* (Dir: Fritz Lang, 1945) and *Phantom Lady* (Dir: Robert Siodmak, 1944). These two films paradoxically present and obscure their critical trial scenes by focusing on the subjective experience of key characters and representing the courtroom in a non-naturalistic manner. I then analyse in detail the trial material of two noirs, *Stranger on the Third Floor* (Dir: Boris Ingster, 1940) and *The Lady*

from Shanghai (Dir: Orson Welles, 1947), which employ noir strategies to parody and subvert the conventions of courtroom depiction and in the process critique the American models of law and justice. Once again, these films enact their critique of the courts through ruptures of the patterns of representation outlined in my first chapter.

Throughout my second, third and fourth chapters, I identify patterns of inflection of the courtroom conventions outlined in the first chapter that persist across examples of the genre under discussion. This is integrated alongside detailed textual analysis of the trial scenes, which are discussed not solely in relation to their broader generic frameworks and the conventions of trial representation, but also through a consideration of their place and significance within the network of relationships constructed across the film. My aim has been to strike a balance between demonstrating how these films exemplify the given genre or mode's patterns of trial representation (and the corresponding meanings of those patterns), and examining their own specific choices, evaluating the particular meanings and effects produced.

Review of the Literature

I intend here to examine the existing scholarship on representations of the trial in Hollywood cinema. As this is a relatively neglected area of study, I am able to look in detail at the work of those who have focused on the trial, comparing their approaches to my own and considering the relevance of their key findings and arguments to my project. Because many of the scholars I include have more than one publication on legal cinema, I have chosen for the benefits of rigour and clarity to focus specifically on works that contain substantial material on the trial, although it will become clear that this often entails overlap with broader issues of law and film. Partly for this reason, I begin by looking at an overview of the ‘law and film’ field of criticism by Greenfield, et al. that also considers representations of the trial, before taking a broadly chronological approach to other works on the trial in cinema that I have found relevant and (for various reasons) illuminating.

A majority of the scholarship on trial representation in film comes from the field of ‘law and film’ writing. This field emerged as scholars in the disciplines of law and criminology began to grapple with the plenitude of legal representations in cinema, inevitably becoming drawn towards depictions of the trial.¹⁴ The grounding of most of these scholars outside of film studies has resulted in works on the trial in film that function primarily as filmographies or surveys, discussing films largely in relation to the accuracy of their legal representation. This applies to, for example, *The Drama of the Courtroom* (Laster, with Breckweg and King, 2000) and *Reel*

¹⁴ The study of filmic representations within other academic disciplines is not isolated to the example of law and film. Medicine and film, for example, is another cross-disciplinary field that considers the representations of medical officials (doctors, surgeons) in film. See, for example, Michael Shortland, *Medicine and Film: a checklist, survey and research resource* (Oxford: Wellcome Unit for the History of Medicine, 1989) and Brian Glasser, *Medicinema: Doctors in Films* (Oxford: Radcliffe Publishing, 2010).

Justice (Bergman and Asimov, 2006), two of the few books devoted to the trial scene in cinema. Thus, despite the proliferation of material on the trial in film over the past two decades, a bulk of it is at cross-purposes to my own methodology and intention.

Greenfield, Osborn and Robson provide an overview of this field and acknowledge the failure of much of law and film scholarship to sufficiently engage with film theory and criticism. They note that much early research was interested mainly in the ‘accuracy and realism’ of film’s representations of law, viewing them in relation to the real-life law that constituted the primary scholarly interest.¹⁵ The authors of *Film and the Law* suggest that this imbalance has resulted in a neglect of film studies’ aims and methodologies in examining trial representation:

From the earliest days when lawyers appeared in films, concern has been expressed by the legal profession [...] as to the kinds of images being portrayed. How the images have altered and how different groups have been featured forms a major part of the scholarship to date. Rather less attention has, hitherto, been paid to analysing how these images are constructed.¹⁶

Greenfield, Osborn and Robson aim to identify the elements of the law film genre, although they acknowledge the problems inherent to generic classification.¹⁷ This desire to locate through dominant patterns of trial representation a discrete genre, be it the law film, trial film or courtroom drama, is a preoccupation of the field that reappears across the literature I review here. Moving from a consideration of the appeal of the legal proceeding for filmmakers (in which they note the inherently

¹⁵ Steve Greenfield, Guy Osborn and Peter Robson, *Film and the Law: The Cinema of Justice* (2nd edn: Oxford and Portland, Oregon: Hart Publishing, 2010), p. 4.

¹⁶ *Ibid.*, p. 8.

¹⁷ *Ibid.*, p. 51.

dramatic nature of such proceedings, the courtroom's 'architectural and symbolic qualities', and its adversarial format as key elements),¹⁸ Greenfield et al. present what they deem 'an analysis of the notion of 'courtroom drama'',¹⁹ considering how this notion, which they identify as a focus of earlier attempts to classify the law film, has been problematically theorised. Referring to Thomas J. Harris' *Courtroom's Finest Hour in American Cinema* (to which I will return shortly), they point out that a number of the 'classic' elements' of the courtroom drama Harris identifies in his example of generic typicality (*Anatomy of a Murder*), fail to appear in the other courtroom films cited in his study. They then quote from *Reel Justice*, in which the authors similarly list a number of conventions they identify in the courtroom drama:

- 1) 'the drama of one-on-one confrontations'
- 2) 'the built-in suspense factor of wondering what judgment the jury (or in some cases the judge) will decide'
- 3) 'eternally fascinating themes such as murder, treachery and sex'
- 4) 'controversial legal and moral issues [...] presented in a sugar-coated way. They can present the clash between good and evil such as the movie lawyer fighting for Morality and Justice'.²⁰

The quotes invoked by Greenfield et al. are emblematic of the law and film approach to identifying the courtroom drama's conventions; they bear a sketchiness that views the courtroom convention in terms of its broadest constitutive narrative

¹⁸ Ibid., p. 34.

¹⁹ Ibid., p. 33.

²⁰ Bergman, Paul and Asimov, Michael, *Reel Justice – the courtroom goes to the movies*, (Kansas: Andres and McMeel, 1996) p. xvi, quoted in Steve Greenfield, Guy Osborn and Peter Robson, *Film and the Law: The Cinema of Justice* (2nd edn: Oxford and Portland, Oregon: Hart Publishing, 2010), p. 43.

and thematic elements, at the expense of considering, for instance, recurrent stylistic strategies and the procedural elements of the trial itself. Greenfield et al. counter the configurations of the courtroom proffered by previous theorists with a simple yet pivotal point, one that can help us to understand how a working foundation for identifying the specific terrain of the trial form can be formulated:

there are good reasons why the courtroom drama has been categorised and recognised as a distinct type: the setting, the pageantry, the uniform, etc. Thus the physical environment is a limited and known quantity and cannot be altered, trials cannot take place elsewhere [...] law governs the type of building rather than the other way around and the style is also fixed. We know the rules of engagement and these must follow their course. The participants cannot shift to any degree from the pre-determined path [...] The whole point of trials is that they are formulaic.²¹

Greenfield et al. subsequently note that this is ‘the beauty of the courtroom scene – it is fixed; it has to be, otherwise the law does not work’.²² To acknowledge these essentially limiting qualities is to move closer to what I see as a logical method of approaching the trial form, which is to look at the elements that are truly ‘fixed’ and begin to distinguish the different ways of inflecting these elements through variables of form and content.

However, this is not a methodology that the authors of *Film and the Law* adopt, despite their useful recognition of the flaws in previous conceptualisations of courtroom convention. The authors’ concern with film theory and in particular genre theory is a step in the right direction, but their treatment of the latter reveals where their methodology diverges from my own. Their attempts to identify the law film as a genre includes the proposal that the law film reaches far beyond the

²¹ Greenfield, Osborn and Robson, *Film and the Law*, pp. 62-63

²² *Ibid.*, p. 63.

courtroom convention.²³ I am in agreement with this; however, their argument extends to the suggestion that some courtroom scenes are irrelevant to the discussion of film and the law, providing no insight into cinematic constructions of law and justice.²⁴ I would maintain, instead, that all films that venture into the courtroom will yield from analysis of its trial content some insight into that film's conception of law and justice, the ideological positions entailed therein, and (extracting oneself from the narrower goals of the legal studies approach) the specificities of the individual film's formal and ideological strategies.

The concern the authors of *Film and the Law* have with defining the courtroom drama often seems unproductive, frequently lapsing into unsubstantiated claims (*Witness for the Prosecution* is 'perhaps the best example of a courtroom drama') and presenting contradictory methods for classification.²⁵ For example, moving from their own initial brief formulation of the 'trial movie' as one where 'the action resolves in the courtroom and the trial is the crucial feature of the film',²⁶ they proceed to posit that certain films that would seem to fit this paradigm (including *Kramer vs. Kramer* [1979, Dir. Robert Benson]) must be refused the trial movie label because they are 'only concerned with the courtroom for a limited part of the film'.²⁷ Here, several issues with their classification emerges. Firstly, very few films, courtroom or otherwise, are set entirely during the trial – even famed examples of the trial film genre, *To Kill a Mockingbird* and *Compulsion*, spend

²³ Ibid., p. 51.

²⁴ The exclusion or marginalisation of major groups of texts in the search for a discrete genre (be it the law film, trial film, legal cinema, or courtroom drama) is another failing of the 'law and film' approach, exemplified by a third book-length study, authored by Ross D. Levi, *The Celluloid Courtroom A History of Legal Cinema* (Westport, Connecticut and London: Praeger Publishers, 2005). Levi's exclusion of films that 'make [...] no real impact on the viewer regarding our legal system' (p. xv) relies upon the problematic notion that such 'impact' can be (or has been) classified.

²⁵ Ibid., p. 45.

²⁶ Ibid., p. 53.

²⁷ Ibid., p. 45.

relatively little time in the courtroom in their singular trial scenes. Likewise, many films that would not fit this model ‘resolve’ in the courtroom and thus posit the trial as the crucial, or at least climactic, feature. This is true, for example, of two of my case studies, *Dust be My Destiny* and *Peyton Place*. Greenfield et al. maintain that they prove that ‘there are visual, oral and plot conventions shared by a sufficiently large number of films to allow one to delineate what can be expected in a ‘courtroom film’ or ‘trial movie’’,²⁸ but they remain content largely to identify these conventions, essentially mimicking the same problematic structures of classification they identify elsewhere in the field – they look only at the images and not at their construction.

Thus, *Film and the Law*, despite its useful elements, tends to reflect the issues with law and film work on trials in film, which limit themselves to defining legal cinema, the courtroom drama or the trial film *as* genres. The majority of this work is written by legal scholars for articles in journals such as the *Journal of Law and Society* and *Law and Humanities*. The desire to focus on films that are most clearly tied to legal themes and/or contain overarching trial narratives is understandable when considering the massive corpus of films produced in Hollywood that include courtroom sequences. However, this work is also prone to making generalizations on the basis of a limited corpus of ‘legal films’, or inversely by applying their hypotheses to too broad a corpus (doubtless exacerbated by restraints on word count). Much law and film work tends not only to neglect factors such as genre, censorship and theories of narrative, which may begin to combat these generalizations, but also avoids any extended application of close textual

²⁸ Ibid., p. 62.

analysis to courtroom sequences.²⁹ Omit Kamir, who attempts to overview the law and film field and its varied aims and methodologies, has suggested that the field does not consider cinematic techniques to a satisfactory degree, citing work by Carol Clover that I will discuss shortly, as an ‘outstanding exception’.³⁰ Nevertheless, a significant amount can be gleaned from this body of work and I wish to demonstrate this by looking at other scholars in the field who have written on the trial. Their work exemplifies both the usefulness of some of the field’s material and the gaps that I can address in my own study.

One scholar who typifies law studies-based approaches to the cinematic courtroom sequence is David Ray Papke, who has written many articles on media representations of the American legal system that are often focused on the influences such representations have on cultural perceptions of law. This includes work on representations of such figures as judge (‘From Flat to Round: Changing Portrayals of the Judge in American Popular Culture,’ 2007) and jury (‘12 Angry Men is Not an Archetype,’ 2007). Here I discuss two of his contributions to the field that deal specifically with the trial.

In ‘Conventional Wisdom: The Courtroom Trial in American Popular Culture’, Papke looks at the trial in American cinema, literature and television, stressing the intertextuality that has produced ‘a standardized cultural picture of the courtroom trial’.³¹³² Papke explores the ramifications of this ‘standardization,’ in

²⁹ For example, I have located only one instance of shot analysis in the entirety of *The Celluloid Courtroom*.

³⁰ Omit Kamir, ‘Why ‘Law-and-Film’ and What Does it Actually Mean? A Perspective’ *Continuum: Journal of Media & Cultural Studies* 19:2 (June 2005), p. 261.

³¹ David Ray Papke, ‘Conventional Wisdom: The Courtroom Trial in American Popular Culture’ *Marquette Law Review* 82:3 (Spring 1999), p. 471.

³² Machura and Ulbrich (2001) share with Papke an acknowledgement of the intertextual construction of a standardized ‘movie’ trial. They argue that ‘the cinematic portrayal of legal procedures reflects not so much the real world of law but rather their depiction in previous

particular its effect of ‘naturalizing the text,’ arguing that ‘Americans are at ease with literary and cinematic courtroom trials, and they can use them to clarify their values, reinforce their moral standards, and even shape their identities’.³³ Papke states his aim to ‘denaturalize’ the trial convention, which for him ‘reinforces the ideas that courts work as institutions and that law in general can be trusted both in its articulation and application’.³⁴ It is evident that Papke’s ideological reading of the courtroom trial convention is concerned primarily with the wider cultural repercussions of this convention rather than the elements that have gone into its construction.

Papke structures his discussion around elements of film narrative (setting, character and plot), evading close analysis in his methodology. He tends to generalise when outlining the features of the courtroom trial convention due to an unacknowledged focus solely on the courtroom drama genre. These generalisations include his insistence that ‘defendants and litigants [...] play a surprisingly limited role’ in courtroom narratives because ‘the attorneys tend to be the most developed characters’.³⁵ This statement is not true with regards to my corpus, which is constituted of narratives in which protagonists appear as defendants or other legal non-professionals in the courtroom. Although Papke’s notions of standardization and naturalisation are relevant to the depiction of the courtroom trial in Hollywood cinema more broadly (as my examples show, there are certain narrative, iconographic and formal conventions in depicting the courtroom space and trial development that are remarkably consistent, due in part to the fixedness inherent to

movies.’ [see, Machura, Stefan and Ulbrich, Stefan, ‘Law in Film: Globalizing the Hollywood Courtroom Drama’ *Journal of Law and Society* 28:1 (2001), p. 129.]

³³ David Ray Papke, ‘Conventional Wisdom’, p. 478.

³⁴ Ibid., p. 488.

³⁵ Ibid., p. 483.

the form) he fails to consider the ways in which the concerns and styles of different genres and modes can inflect or interact with this standardized picture.

There is more to be gleaned from a subsequent article by Papke which acknowledges its focused discussion on a small group of films that remain at the forefront of the cultural picture of the courtroom trial. Here, Papke responds to work from Thomas J. Harris and Nevins that saw this group as constituting respectively ‘the finest hour of the courtroom cinema in America’,³⁶ and the legal film’s ‘golden age’.³⁷ Papke interrogates the shared ideology underlying these “golden age” images of U.S. law, although he notes the slight disparities between his predecessors’ corpuses and his own.³⁸ Papke’s own corpus consists of nine films released during the period covering 1957-1962: *12 Angry Men*, *Witness for the Prosecution*, *I Want to Live!* (1958, Dir: Robert Wise), *Anatomy of a Murder*, *The Young Philadelphians*, *Compulsion*, *Inherit the Wind*, *Judgment at Nuremberg* and *To Kill a Mockingbird*. While he asserts that the films are ‘hardly identical’,³⁹ Papke argues that they ‘have a shared legal content. The films tell us similar stories about law, lawyers, and legal institutions’.⁴⁰ These stories include in each instance substantial uses of the trial form. Papke refigures Nevins’ notion of a “golden age” to point to the films’ shared ideological position:

the films under consideration are “golden” in terms of not only the quality of their screenwriting, directing, and acting but also their

³⁶ Harris, Thomas J, *Courtroom’s Finest Hour in American Cinema* (New York and London : The Scarecrow Press, Inc Methuen, 1987), p. xiii quoted in Papke, David Ray. ‘Law, Cinema and Ideology: Hollywood Legal Films of the 1950s’ *UCLA Law Review* 1473 (2001), p. 1474.

³⁷ Nevins, Francis M. ‘Law, Lawyers and Justice in Popular Film and Fiction’ *Human Education* (May, 1984), p. 4 quoted in Papke, ‘Law, Cinema and Ideology’, p. 1474.

³⁸ For example, remarking upon the absence of two of his texts, *To Kill a Mockingbird* and *The Young Philadelphians*, from Harris’ eight case studies.

³⁹ *Ibid.*, p. 1475.

⁴⁰ *Ibid.*, p. 1476.

presentations of lawyers, trials, and law in general. The films endorse the rule of law; they inspire belief in that rule of law.⁴¹

Papke details how they ‘endorse’ and ‘inspire belief’ in ways that are useful to my own research. Several of Papke’s points will feature in my following chapter, as he detects patterns of characterisation in depictions of lawyers and judges and treatments of the courtroom space across these films that point to the creation of ‘an idealized courtroom and courtroom proceeding’.⁴² For example, Papke’s assertion of the importance of a ‘political “centering”’ of the legal professional characters to the golden age trial film’s affirmation of the U.S. legal system can be compared with the symmetry he notes that the courtroom space is imbued with in the films.⁴³

The ‘Americanism’ embedded in the films’ mode of trial representation is justifiably emphasised by Papke,⁴⁴ who argues that law ‘and a belief in law are cast as something noble and particularly American’.⁴⁵ Here Papke is at his most convincing, especially when he makes the case for *Judgment at Nuremberg* as a quintessentially American courtroom film, noting that, despite the European inflection provided by the setting, ‘what we have is a bastardised American proceeding trying four Nazi judges for violating an American sense of the rule of law’.⁴⁶ This makes his subsequent attempt to historicise this golden age as part of Hollywood’s assertion of its Americanism in response to the anti-communist movement particularly effective.⁴⁷⁴⁸

⁴¹ Ibid., p. 1483.

⁴² Ibid., p. 1478.

⁴³ Ibid., p. 1476.

⁴⁴ Ibid., p. 1487.

⁴⁵ Ibid., p. 1482.

⁴⁶ Ibid., p. 1485.

⁴⁷ Ibid., p. 1490.

⁴⁸ This includes the provision of specific contextual evidence (such as President Eisenhower’s proposal of a national Law Day and the American Bar Association’s presentation of ‘Gavel Awards’

Papke also considers the ‘provocative juxtaposition of law and justice’ as a major thematic preoccupation of the films,⁴⁹ albeit one that is invariably absorbed into the overarching ideological project: ‘The legal process – even in the Hollywood film – does not always get things right; it does not always deliver justice [...] But still, all the films speak to the possibility of justice under a rule of law [...] The films assure us that our aspirations for honest lawyers, reliable courtrooms, and good laws are appropriate and prudent’.⁵⁰ I would argue that this gesture to the juxtaposition rather than conflation of law and justice warrants more extrapolation than it is given; how does *To Kill a Mockingbird*, for example, still speak to the ‘possibility of justice under a rule of law’ when the jury’s racial prejudices ensure that the African-American defendant is found guilty despite the evidence to the contrary? This is a tension at the heart of the trial form to which other scholars are more attuned, and which I will return to in my discussions of more recent and more developed studies of the trial in cinema.

Papke faces the same obstacles as others producing article-length studies on trial representation, which means that the level of detail provided is often inadequate. For example, Papke briefly notes that the ‘stories of the litigants and the lawyers all become bigger than accounts of individual crimes and controversies; all take on larger symbolic meaning’.⁵¹ This is true, but it is also worth examining in each instance what these ‘larger symbolic meanings’ are and how they relate to the

to media texts ‘that fostered public awareness of the law and of America’s system of justice’, both 1958). This historicising of particular groups of trial texts occurs elsewhere within the field to varying degrees of engagement, including in work by Rosenberg (1994) and Rafter (2001) to be considered later in this literature review. It is generally agreed upon that a convergence of social and cultural factors influenced the golden age of the trial film in the late-1950s.

⁴⁹ Ibid., p. 1481.

⁵⁰ Ibid., p. 1486.

⁵¹ Ibid., p. 1481.

broader intentions and generic frameworks of the films. There is also a tendency, through Papke's corpus selection, to generalise or misinterpret. For example, Papke's inclusion of *I Want to Live!*, a film usually (and I would posit understandably) absent from the "golden age" corpus, warrants further explanation than it is granted. I would not be alone in maintaining that this film both emphasises the failure of the judicial system and is aligned with the female experience,⁵² two factors that render it anomalous within Papke's corpus and, in the instance of the former, entirely contradicts his argument.

Similarly, Papke exemplifies the reductive readings of *Anatomy of a Murder* made by legal scholars. Papke argues that the lawyer protagonist of the film, played by James Stewart, finishes the film 'the way Atticus Finch [...] was from the start: smart, stable, devoted to the profession, and blessed with the kind of moral authority that is most possible when one has deserving clients'.⁵³ This perspective diverges from interpretations of the character made by film scholars Foster Hirsch and Nick Pinkerton, who locate a far greater ethical ambivalence embedded in the character's performativity in the courtroom and the film's use of Stewart's persona. *Anatomy of a Murder* has inadvertently become a litmus test for the differing perspectives offered by film studies and by lawyers, criminologists or historians writing on the 'law film', with Shivas (1962), Perkins (1972), Zborowski (2008) and Bruzzi (2010) reading through the film far more ambiguity, ambivalence and

⁵² See Nicole Rafter, 'American Criminal Trial Films: An Overview of Their Development, 1930-2000' *Journal of Law and Society* 28:1 (March 2001), p. 17

⁵³ Papke, 'Hollywood Legal Films of the 1950s', p. 1476.

⁵⁴ His perspective is shared by another scholar with a legal background, Nicole Rafter (whose work I will return to later in this review of literature), who states that 'Stewart's portrait of a homespun attorney, simple yet crafty, reinforces the archetype of the heroic, all-American lawyer' (see Nicole Rafter, 'American Criminal Trial Films: An Overview of Their Development, 1930-2000' *Journal of Law and Society* 28:1 (March 2001), p. 17.)

complexity with respect to its depiction of law and legal process than those working outside of film studies. The insights offered by film scholars through a much closer engagement with the text and a disinclination to group *Anatomy of a Murder* amongst the other 1950s legal films,⁵⁵ demonstrate what is all too often overlooked by legal scholars. Such oversights demonstrate what close analysis and a greater engagement with cinematic conventions (including those of genre and star persona) can combat. I will return to Papke's corpus and his overarching argument in my next chapter. Although I agree that a set of strategies can be broadly detected across this group of films that works to affirm and uphold a law-based ideology, I also believe that looking at some of these films in more detail will reveal devices and meanings specific to the project of each film while simultaneously sharpening our understanding of this broader, shared ideology.

Norman Rosenberg more effectively negotiates some of the pitfalls of generalization and misinterpretation that muddy Papke's arguments. His article 'Hollywood on Trials' builds on work in both film and law studies, discussing a number of classical Hollywood films in relation to two main issues: firstly, classical Hollywood's recurrent use of the structures of law, in particular the courtroom trial, as a means of providing narrative resolution and closure; and secondly, the legal theory-oriented question of 'the ways in which films about law represent problematics of "legal translation"'.⁵⁶ He does this through a comparison of traditional trial films and what he terms 'law noir',⁵⁷ contrasting two 'conventional' trial films, *Twelve Angry Men* and *The Young Philadelphians*, with the law noirs

⁵⁵ Indeed, Bruzzi directly contrasts *Anatomy of a Murder* with what she deems the "conventional Hollywood trial films of the studio era" (see, Bruzzi, 'Imperfect Justice', p. 2)

⁵⁶ Rosenberg, Norman. 'Hollywood on Trials: Courts and Films, 1930-1960' *Law and History Review* 12:2 (Autumn, 1994), p. 344.

⁵⁷ *Ibid.*, p. 343.

Stranger on the Third Floor, Fury (1936, Dir: Fritz Lang), *They Won't Believe Me* (1947, Dir: Irving Pichel) and *Boomerang* (1947, Dir: Elia Kazan).

‘Hollywood on Trials’ constitutes one of the first attempts to examine the trial sequence with recourse to the frameworks of genre and classical narration. The distinction made between the traditional trial film and the law noir allows Rosenberg to detect divergent narrative strategies and ideological positions embedded in the use of different generic frameworks. Rosenberg finds that the traditional trial films ‘highlight a court trial as a means for providing *relatively* assured and authoritative “closure to a narrative”’ and ‘represent a courtroom as a special, public forum in which potentially troubling cultural questions about the specialized discourses of legal professionals can be laid to rest’.⁵⁸ He argues that the level of narrative resolution required from classical Hollywood narratives is often provided by trial sequences, which through ‘appealing to the ideal of a clear, authoritative law’ work to ‘resolve a film’s [...] narrative ambiguities’.⁵⁹

The ‘law noirs’, in contrast, are shown to ‘raise doubts about the ability of the trial process to achieve satisfactory closure and about the adequacy of legal language itself’.⁶⁰ Rosenberg calls upon theories of translation within law studies that argue that, during courtroom trials, ‘the real life concerns of “outsiders” are represented in the specialized forms required by the legal discourses of “insiders”’.⁶¹ The translation metaphor views the law as a foreign language to those outside of the legal profession and suggests that their ‘stories will ‘inevitably’ be transformed through the lawyer’s representation’, which may ‘serve to silence,

⁵⁸ Ibid., p. 344.

⁵⁹ Ibid., p. 346.

⁶⁰ Ibid., p. 345.

⁶¹ Ibid., p. 349.

rather than give voice to, people who find themselves involved with law'.⁶² The issues Rosenberg raises here pertaining to the 'language' of law, its insider/outsider distinctions, and what this means for expressivity and the ability to tell one's own story in the courtroom, are then discussed in relation to the courtroom trial in the films he designates as 'law noir'.

Hence Rosenberg reads *Stranger on the Third Floor* as a critical interrogation of the reliability of the trial system, effectively considering both its thematic and formal elements (noting, for example, that 'the film visualizes the trial system as systematically unbalanced' through the use of devices including canted angles).⁶³ He draws out the broadly similar critiques of legal discourse at work in the other three 'law noirs' but, in paying attention to each individually, and by employing textual analysis, Rosenberg is able to discuss the specificities of each. For example, he argues that the final 'law noir' he discusses, *Boomerang*, imbues its trial scene (albeit reservedly) with more trust in the legal system through its legal professional protagonist, thus paving the way for the later, more straightforwardly affirmative representations.

Rosenberg's discussion of legal translation is also highly useful to my approach, the insider/outsider distinction he draws reflecting to some degree the analogous position of genres with regards to trial depiction: How do 'outsider' genres infiltrate or subvert the trial form from the 'inside'? How do characters whose generic terrain exists outside of the courtroom cope within it? One of the few problems with Rosenberg's methodology, which will become apparent when he returns to the 'law noir' in a more recent piece considered in my noir chapter, is his

⁶² Ibid.

⁶³ Ibid.

insufficient engagement with debates surrounding the constitutive elements of noir. Rosenberg relegates his definition of film noir to a footnote, describing it as ‘a body of Hollywood films [...] that featured narratives about crime and a dark [...] critical view of American life and institutions’.⁶⁴ A greater engagement with the substantial literature of film noir could have bolstered Rosenberg’s argument further. My own readings of trial scenes in noir will be more attentive to debates in noir criticism. Rosenberg also refrains from dealing with further issues of generic hybridity and overlap. All of his noir case studies sit uneasily with the noir classification, drawing upon the conventions of the social problem film (*Boomerang*, *Fury*) and even the horror genre (*Stranger on the Third Floor*). The issues he raises can also be applied to other genres, modes or styles within Hollywood cinema that are neglected, or only alluded to, in his discussion. For example, Rosenberg argues that the narrative developments of the courtroom sequences in *Fury*, during which emotion ‘carries the day,’ are in part indebted to ‘female-centred melodramas’.⁶⁵ However, neither he nor any other law and film scholars that I have located examine what is evidently being suggested here as an inflection of the courtroom trial sequence that is specific to melodrama. Nevertheless, the issues Rosenberg raises through the law noir, of translation and an awareness of the extent to which the climactic courtroom sequence can elude as well as provide narrative resolution and closure, can be applied to my own corpus of films covering a number of genres.

Rosenberg’s influence can be seen on Nicole Rafter, who utilises the notion of ‘law noir’ in her examination of the historical development of the ‘American criminal trial film’ (which, in another indication of the field’s classificatory

⁶⁴ Ibid., p. 343.

⁶⁵ Ibid., p. 357.

confusion, she designates as a subgroup of a larger trial film genre). Rafter detects three distinct phases in the evolution of the criminal trial film: ‘an experimental period that began in the 1930s and bore fruit in the 1940s and 1950s with law noirs; a brief heroic period [...] and a period of depletion, 1970 till the end of the century and beyond, during which trial movies tried but often failed to meet the challenge posed by a new set of cinematic and political circumstances’.⁶⁶ My chosen time-range broadly covers her first two phases, and Rafter’s conceptualisations of these distinct phases are indebted to earlier work on trial representation, including those discussed above.

Before looking at the specifics of each phase, Rafter begins with a broader configuration of what she views as the foundational elements of the criminal trial film. She argues that the major theme of this subgroup is ‘the difficulty of achieving justice’,⁶⁷ locating in the criminal trial film ‘a tension between two sorts of law: immutable natural law or justice on the one hand and fallible man-made law on the other’ and concluding that the films ‘proceed to play with the discrepancy between the actual and ideal’.⁶⁸ She then posits the inclusion of opposed ‘justice’ and ‘injustice’ characters as pivotal to this theme and the films’ pattern of development. The two character types work to divergent ends with regards to the gap between natural and man-made law; the justice figure attempts to align the two configurations, whereas the injustice figure is responsible for the presence and persistence of the gap.⁶⁹ Rafter argues that in ‘most criminal trial movies produced

⁶⁶ Nicole Rafter. ‘American Criminal Trial Films: An Overview of Their Development, 1930-2000’ *Journal of Law and Society* 28:1 (March 2001), p 12.

⁶⁷ *Ibid.*, p. 11.

⁶⁸ *Ibid.*, p. 10.

⁶⁹ *Ibid.*

before 1980, the film's resolution occurs when man-made law becomes identical to the underlying pattern'.⁷⁰

Although Rafter offers a striking and potentially productive conceptualisation of the trial film's constitutive elements, it is immediately undermined by the list of films she proceeds to note that feature no justice figure at all. Similarly, her contention that 'the closing of the gap between law and justice usually occurs in the trial scene, where the triumph of the good lawyer over the nasty one signals resolution of the film's basic dilemma' damages her initially promising point by gesturing to a convention that even a cursory glance of trial scenes would be able to counter or complicate.⁷¹ Rafter's admitted 'generalizations' are thus rendered even more problematic,⁷² although some of her basic points remain relevant to this thesis. This includes her notion that many criminal trial films 'conclude with a good father or father-figure (who may also be a judge) settling the case and restoring order', which can be related to my own understanding of how trial scenes reflect, and occasionally comment upon, a patriarchal structuring of the court of law. The concept of the justice and injustice figure (while problematically theorised by Rafter) also offers a useful way of distinguishing between the character types of my case studies and of identifying individual films' treatments of law and justice.

Rafter's first two phases are, as I have noted, indebted to previous definitions of trial cinema but largely fail to expand on them productively. Her input on the 'heroic-lawyer' phase is more useful, particularly when she considers

⁷⁰ Ibid.

⁷¹ Ibid., p. 11.

⁷² Ibid., pp. 9-10.

how the films are also ‘traditional’ formally, arguing that ‘their camera work is less dramatic than that of law noirs and less radical – one might almost say more respectful’.⁷³ This notion of a respectful form in representing the trial is useful to me, as is her reference to ‘standard devices’,⁷⁴ which I will return to in following chapter. However, Rafter’s designation of the period prior to the ‘heroic-lawyer’ phase as one of ‘experimentation’ (with nods to *Young Mr. Lincoln* [Dir: John Ford, 1939] – ‘the most heroic of all heroic-lawyer movies’ – and *The Ox-Bow Incident* [Dir: William A. Wellman, 1943] as predecessors of the heroic lawyer tradition) is more problematic.⁷⁵ I find this ‘experimental’ descriptor misleading and reflective of several issues within the field, some of which I have mentioned previously. It demonstrates a lack of awareness of the dominant structural devices of classical storytelling, particularly genre and intertextuality. Regarding the latter, I argue that the failure of scholars to consider the intertextual web informing trial depiction, with the exceptions of Machura and Ulbrich (2001), leads them too readily to search for ‘phases’ and ‘lines of development’ in trial depiction. I maintain that, ignoring undeniable periods of socio-cultural influence on trial representation (including, of course, the ‘heroic-lawyer’ strand of the 1950s), and the post-classical models that exist outside of the time period with which I am concerned, it is more productive to think of the trial scene as a form limited by its rigidity and disinclined towards drastic developments or phases over the course of the classical era. Rafter’s survey of the ‘experimental period’ is marked more by gaps and absences than useful content, and in focusing upon Rosenberg’s ‘law noir’ conceptualisation she mistakenly (if implicitly) establishes the noir model as the

⁷³ Ibid., p. 15.

⁷⁴ Ibid.

⁷⁵ Ibid., p. 12.

dominant one of the period. The exclusion of, for example, trial representation in the social problem film and the melodrama, two modes which were commonly more commercially popular than noir, demonstrates a lack of engagement with other contexts. This lack of contextual engagement is possibly what leads Rafter to the conclusion that *Madame X* 'may be the worst trial film ever made';⁷⁶ inattentive to the specificities of melodrama, Rafter marginalises what I consider a highly effective and significant use of the trial form.

Carol J. Clover (1998) also examines the courtroom trial in American cinema. The inclusion of her piece as a chapter in Nick Browne's *Refiguring American Film Genres* demonstrates both the central project of identifying the trial film, which Clover argues is 'a category widely acknowledged though never treated as a genre',⁷⁷ and the grounding of Clover's discussion in film studies. She accordingly grants greater focus to filmic techniques than most legal scholars working on the topic, and pays particular attention to the depiction of the jury and the representational strategies employed in order to position the trial film's viewer as a jury surrogate.

Clover initially takes a historical approach to the trial film genre, tracing the depiction of trials on film back to the earliest days of silent narrative cinema and explaining their inherent audience appeal by drawing out the parallels between film narrative and trial narrative as well as trial juries and film audiences. Clover's illuminating analysis of courtroom sequences in films such as *Compulsion* is applied in order to demonstrate her hypothesis that the trial film genre can be

⁷⁶ Ibid., p. 18.

⁷⁷ Carol J. Clover, "'God Bless Juries!'" in Nick Browne (Ed.), *Refiguring American Film Genres* (London: University of California Press, 1998), p. 257.

identified primarily in terms of its consistent treatment of the jury, arguing that ‘what we expect in a courtroom drama is a form that presents itself as a trial and us as its jury’.⁷⁸ She argues this is achieved partly by reserving a ‘blank space’ in the text (through an evasive or even non- depiction of the diegetic jury) for the viewer to fill.⁷⁹ She tellingly describes exceptions to this rule as ‘generically offbeat’.⁸⁰

Clover’s central hypothesis is an intriguing one that she is able to apply to various trial narrative scenarios. For example, she suggests that even in the films where the viewer already knows the truth regarding the case on trial, the film’s strategies still ask us to enact this process of judgment, only in this instance on the final sentence passed. Clover proposes that the majority of trial films present a ‘double-trial structure’ that embeds in its ‘official’ case other possibilities of evaluation and judgment that pertain to the wider legal system. She argues that:

The double-trial structure is fundamental to trial narratives. [...] In the overwhelming majority of trial movies, the unofficial trial turns on an aspect of the legal system. Is the system fair across various social differences – class, race, gender? Can it be corrupted? Does money buy people off? Are lawyers human? Should the death penalty exist? Can the system really get at the truth? Can it distinguish between technical justice and real justice? Does it convict people? Does it too often acquit the guilty?⁸¹

Clover brings this configuration of the double-trial structure back to her central argument, asserting that even this unofficial trial ‘almost never questions [...] the institution of the jury’.⁸² She relates her conceptualisation of the trial film to an overarching ideology, concluding that the ‘American courtroom drama could no more critique the jury than a game of Cowboys and Indians could critique

⁷⁸ Ibid., p. 265.

⁷⁹ Ibid.

⁸⁰ Ibid., p. 266.

⁸¹ Ibid., p. 264.

⁸² Ibid., p. 265.

racism'.⁸³ I can examine the latter claim by considering the ways in which my case studies treat the jury, considering whether they consistently keep the jury system central to affirmative notions of legality and justice as Clover asserts, and how any 'generically offbeat' treatments of the jury (of which there are several within my case studies) construct separate meanings. The notion of the 'double-trial' embeds within all significant cinematic trials the possibility of critique and commentary on the legal system. If the vast amount of filmic trials contain this shadow second trial (and I would agree with Clover that they do) then one fruitful manner of distinguishing between models of trial representation is to consider how forcefully they engage with this 'unofficial' trial, what facets of the system they place on trial, and what judgments are reached. Although the focus of other scholars on identifying and classifying the law/trial/courtroom genres has limiting consequences for the broader range of trial scenes to be found in the Hollywood cinema, Clover's approach is sufficiently inclusive to be applicable to the spectrum of cinematic trials, especially through this notion of the 'double-trial' structure.

Stella Bruzzi (2010) provides a recent contribution to the field that is particularly useful and illuminating with regards to my project. Bruzzi's decision to focus on director Fritz Lang, and specifically his depiction of the trial system in *Fury* (1936), allows for another acknowledgement of contrasts 'to the normative Hollywood impulse to believe unquestioningly in American justice' as typified in traditional trial films.⁸⁴ Bruzzi asserts that in 'the majority of Hollywood courtroom dramas, the courts [...] are the 'great levellers'; they embody and uphold the rights of the individual. They do not, as they frequently do in Lang, thwart and contradict

⁸³ Ibid., p. 272.

⁸⁴ Stella Bruzzi, 'Imperfect Justice: Fritz Lang's *Fury* (1936) and Cinema's Use of the Trial Form' *Law and Humanities* 4:1 (2010), p. 2

ideas of personal and social justice'.⁸⁵ Bruzzi analyses *Fury* in order 'to demonstrate that, even within the context of mainstream films funded by the major Hollywood studios, it was still possible to engage in a serious critique of the same legal systems that many other films sought resolutely to uphold'.⁸⁶ Thus, like Rosenberg, Bruzzi's choice of corpus counterbalances the reductive tendency within law and film scholarship to focus on the 'traditional trial film'.

Prior to her extended discussion of *Fury*, Bruzzi addresses many of the issues I have encountered in my navigation of the field of law and film scholarship, mostly related to the fact that 'the field of legal cinema has largely been discussed, developed, and refined outside of film studies'.⁸⁷ This field's limited corpus is acknowledged by Bruzzi, who argues that Lang's 'peripheral' status in law studies demonstrates the differences between law and film scholarship, as does the fact 'that the films most readily discussed in existing law and film books – *The Verdict*, *Philadelphia*, *A Civil Action*, *The Firm* or *The Pelican Brief* – are not generally viewed from within film studies as being very good films'.⁸⁸ Likewise, Bruzzi acknowledges that much law and film scholarship aims both to produce a typology of legal cinema and employs methods that view legal cinema 'in direct relation to the law outside cinema, the 'real' law as opposed to the 'reel' law, if you like'.⁸⁹ Bruzzi seeks to readdress these imbalances through her own reading of Lang's *Fury*.

⁸⁵ Ibid.

⁸⁶ Ibid.

⁸⁷ Ibid., p. 3

⁸⁸ Ibid., p. 5.

⁸⁹ Ibid., p. 3.

Bruzzi also pays close attention to the fit between trial sequences and the dominant models of narrative in classical Hollywood cinema, providing a more incisive expansion of the arguments made by Rosenberg. Bruzzi argues that:

the trial's formal linearity (that it is defined by causality and bound by the classical unities of time, character and space) offered a narrative form that embodied a sense of certainty. A neat consequence of the trial having to reach a conclusion (whether satisfactory or not) is that it embodies closure.⁹⁰

The 'inherent cohesiveness' of the trial form is relevant for Bruzzi because it both offers an ideal space for 'confrontations between oppositional socio-political and ideological forces' to be enacted and provides 'an acceptable rendition of classical Hollywood's attachment to narrative closure'.⁹¹ Having acknowledged these qualities of the cinematic trial, Bruzzi then demonstrates how they are complicated in the trial sequence of *Fury* through Lang's complex engagement with questions of justice and morality and a deliberately unconvincing sense of narrative closure. She concludes that Lang's legal films 'do not point to an ideological position as, say, does *Twelve Angry Men*; instead they offer analyses of the workings and shortcomings of justice'.⁹² Bruzzi's work overall demonstrates an acute understanding of both the standard, 'traditional' uses of the trial form in cinema and the divergent uses produced by filmmakers such as Lang.

E. Deidre Pribram provides the most recent innovative contribution to the field under discussion here. Considering the debates over generic status within the field from a new perspective, Pribram introduces the notion of the justice genres, an umbrella term encompassing the various genres that 'devote attention to the legal

⁹⁰ Ibid., p. 6

⁹¹ Ibid.

⁹² Ibid., p. 19.

system’ and which ‘share common ground in their attempts to constantly define and redefine what justice or injustice might mean in ever-changing cultural and mediated circumstances’.⁹³ Trial films are included within this schema, but Pribram rightly emphasises that the majority of ‘legal genres are mixed or hybrid forms’.⁹⁴ Pribram’s more inclusive and expansive consideration of genre is also nuanced by her emphasis on the role of rendered emotion in identifying generic structures and their cultural repercussions. Thus, Pribram sets out to argue that ‘one of the ways generically aligned narratives diverge is through what usually is referred to as ‘tone,’ but which I reframe here as the narrative structures of feeling or emotional codes various texts evoke’.⁹⁵ This involves balancing considerations of the interrelated structures of depicted emotion and audience affect in relation to the justice genres. Considering these ‘narrative structures of feeling’ in relation to the justice genres at the heart of her study, Pribram argues that:

the judicial system and the justice genres share in common the frequent perception that each operates in a realm grounded in reason, managing to excise the limitations of emotions. However, those who understand both juridical processes and law-and-order genres as culturally constituted recognize, increasingly, their indispensable engagement with emotions.⁹⁶

Pribram’s introduction of these concepts pivoted around the centrality of emotion to genre classification and the justice genres in particular is highly useful in considering how I can approach my case studies. The notion of a tension between reason and emotion can be easily extended to the narrative space of the courtroom,

⁹³ Pribram, E. Deidre. *Emotions, Genre, Justice in Film and Television*. (London and New York: Routledge, 2013), p. 4

⁹⁴ *Ibid.*, p. 52.

⁹⁵ *Ibid.*, p. 5.

⁹⁶ *Ibid.*, p. 68.

and is especially productive when considering the particularly emotional depictions and affects at play in, for instance, women's melodrama.

Pribram later focuses on the trial film, analysing some of the key concepts introduced by Rafter and Clover. She applies Rafter's claim that the tension between 'natural' and 'man-made' (described by Pribram as 'positive') law is central to the criminal trial film, to Clover's notion of the 'double-trial structure', positing that 'the double-trial structure, and in particular its focus on larger concerns of justice, is grounded in the struggle between positive law and natural law, in which natural law is almost invariably embodied by a single individual working *against* the system'.⁹⁷ Pribram argues that these trial narratives' affirmations of law are predicated upon the presence of this character, a stand-in for natural law, 'who is unscathed by and somehow remains immune to the power struggles, corruption, bureaucracy, and political intrigues that otherwise plague the social institutions of justice, as they are represented in popular media'.⁹⁸

Pribram's conception of this figure accounts for many of the legal heroes of the traditional trial narratives (including Juror No. 8 in *12 Angry Men* and Atticus Finch in *To Kill a Mockingbird*) and develops a convincing explanation for how such narratives are able to affirm law while remaining focused on its flaws, including the difficulty in achieving justice noted by Rafter. Although once again the rooting of Pribram's conceptualisation in more traditional trial narratives means it must be carefully applied to my own case studies, the facets of the tensions between reason and emotion and positive and natural law that she discusses provide fruitful ways of considering how my case studies construct meaning. Similarly, her

⁹⁷ Ibid., p. 77.

⁹⁸ Ibid., p. 78.

ensuing discussion of the ‘paradigm paradox’ in contemporary trial narratives,⁹⁹ which predicates the triumph of justice upon an overt manipulation of positive law,¹⁰⁰ is a structure that does not apply to trial representations under the classical Hollywood paradigm (specifically due to the impossibility of having positive law broken to positive effect under the enforcement of the Production Code), but nevertheless can contribute to an understanding of my texts. I intend to locate instances of obfuscation and contradiction in the depiction of the breaking of positive law, and of strains between positive law and the text’s own conceptualisations of justice, throughout my case studies.

Conclusions

The field of criticism on trial representation in American cinema of the classical period has informed my own understanding and approach in a variety of ways. I have noted that a majority of the material on trial representation in cinema has emerged from disciplines other than film studies, and that subsequently much of the ‘law and film’ work overlapping with my project deals in differing aims and methodologies to my own. Chief amongst these is the neglect of a sophisticated, rigorous level of textual analysis, which has resulted in considerable generalization and misapplication of findings. The focus on locating discrete genres such as the ‘law film’ or ‘trial film’ has led to an understandable but often unproductive focus on a small body of films and has also marginalised issues of intersecting or hybridized generic forms. This I will counter by looking in depth at case studies from a selection of genres and modes, some of which have gone unstudied in relation to trial depiction. The most illuminating criticism from the perspective of

⁹⁹ Ibid., p. 83.

¹⁰⁰ She discusses this mostly through an analysis of the film *Runaway Jury* (2003, Dir: Gary Fleder).

my intended methodology has been that which considers trial scenes through a combined attention to genre and textual analysis (including Rosenberg, Clover and Bruzzi). However, all works considered have provided material which will inform my subsequent readings of a number of trial scenes, including terminology and argumentation (encompassing issues of ‘legal translation’, divergent concepts of law and justice, notions of ‘natural’ and ‘positive’ law and the ‘double-trial’ structure, amongst others) that I will utilise in my following chapters.

1. Standard Trial Procedure: The Conventions of the Courtroom Trial

Sequence in Hollywood Cinema, 1934-1966

I have considered how previous attempts to identify the conventions of trial depiction have been undermined by broad generalisations. I proposed that a more rigorous consideration of these conventions could use the very fixedness of so many of its components – its setting, its participants, its procedural elements – as its foundation, and examine how stylistic and narrative conventions emerge from these components. I have divided this chapter into three sections; each investigates the patterns of representational strategy I have detected in relation to one component of the courtroom trial. The first of these examines how the space of the courtroom is typically represented through aspects of *mise-en-scène*. The second considers dominant representations of the character types we expect to be present during the courtroom trial. The third looks at how the elements of trial procedure are structured and presented in order to make for engaging drama. Of course, these three areas necessarily intersect and overlap with each other, and this will become apparent over the course of the chapter.

In presenting these conventions, I employ examples from several films that together constitute what has been figured as the golden age of the trial film. These films include *Witness for the Prosecution* (referred to hereafter as *Witness*), *12 Angry Men*, *Anatomy of a Murder* (referred to hereafter as *Anatomy*), *Compulsion*, *The Young Philadelphians* (referred to hereafter as *Philadelphians*), *Inherit the Wind* (referred to hereafter as *Inherit*), *Judgment at Nuremberg* (referred to hereafter as *Judgment*), and *To Kill a Mockingbird* (referred to hereafter as *Mockingbird*). Although I am aware that this choice of corpus may appear to

contradict my critique of much law and film scholarship's restriction to analysing this same set of films, I have chosen them for several reasons. They have proved crucial in cementing the dominant cultural image of the courtroom trial by consolidating the conventions of the prior decades of trial depiction in Hollywood film into, in each case, a substantial trial narrative. When the courtroom trial is considered in relation to Hollywood cinema, particularly of the classical era, it is these films that come most readily to mind. The work on these films featured in my review of literature tended to argue that they all reflect what Bruzzi describes as 'the normative Hollywood impulse to believe unquestioningly in American justice',¹⁰¹ thus making them to some degree representative of broader dominant constructions of law and justice in Hollywood cinema. I will use these films to survey what I argue are the dominant conventions of trial representation across Hollywood cinema of the chosen period, and to offer the most famous and representative iterations of a broader respectful approach to the trial sequence. This approach is, I argue, aligned with the 'normative Hollywood impulse' and identifiable across a much wider body of films than this representative grouping. In order to demonstrate the prevalence of the conventions I identify, I have included an appendix that displays how many of the seven major golden age trial films (*Witness*, *Compulsion*, *Anatomy*, *Philadelphians*, *Inherit*, *Judgment*, *Mockingbird*) contain each of the major conventions outlined. When examples of a given convention are not provided in this chapter, please refer to the appendix.

However, one further reason for examining the golden age grouping is that these films are also, as law and film scholars have noted, 'hardly identical',¹⁰² and it

¹⁰¹ Stella Bruzzi, 'Imperfect Justice', p. 2.

¹⁰² David Ray Papke, 'Law, Cinema and Ideology', p. 1475.

is through their differences as much as their similarities that we can begin to see the flexibility allowed in representing the courtroom trial, even when limited to a consideration of a group deemed traditional. Examining these “golden” trial films at this stage will identify the conventions shared to some degree by all courtroom sequences, while also allowing us to consider where the specific emphases of the courtroom drama or trial film may depart from depictions in films we do not treat within these terms. This corpus selection allows me to establish a dominant representation of the courtroom trial with which to compare my later case studies, but will also demonstrate individual uses of the trial form, particularly in my third section.

Before moving on to the main body of this chapter, I wish briefly to extrapolate some of the major similarities and differences identifiable across the golden age legal films.¹⁰³ All but two of the films take place in American courtrooms. One key shared narrative element is that all of the films considered depict criminal trials, and five feature murder trials (*12 Angry Men*, *Witness*, *Anatomy*, *Compulsion* and *Philadelphians*). This is telling as it relates to the similar overall tone with which the courtroom narrative is being approached. The content of the trials means that all of the films deal with serious subject matter, and in the particular cases of films such as *Mockingbird* and *Judgment*, subject matter that is unimpeachably serious. However, others, such as *Witness* incorporate more humour

¹⁰³ Although my focus is primarily on the textual aspects of the films, I believe that including certain production contexts is useful to beginning to draw distinctions and similarities across this body of films. It is worth noting that *12 Angry Men*, *Witness for the Prosecution*, *Inherit the Wind* and *Judgment at Nuremberg* were all produced independently and distributed by United Artists. *Anatomy of a Murder* was produced by its director Otto Preminger and distributed by Colombia Pictures. The remaining golden age films were produced and distributed (at least in part) by one of the major studios (Universal for *To Kill a Mockingbird*, Warner Brothers for *The Young Philadelphians*, and Twentieth Century Fox for *Compulsion*).

into their trial material while asserting the essential gravity of the narrative scenario. Similarly, although wider social, cultural and political resonances are unavoidable, one way of mapping out the golden age films is to consider the extent of their engagement with these issues in their trial scenes (with Clover's notion of the double-trial structure in mind).

The courtroom trial sequence's place within a larger narrative should also be taken into consideration. None of the golden age courtroom films as defined by Papke take place entirely in the courtroom and the extent and duration of the courtroom material contained within each film is highly variable. For example, perhaps the most famous "courtroom" film of all, *12 Angry Men*, contains little depiction of a trial proceeding (but is an exemplary trial narrative, as Clover demonstrates). *Anatomy* and *Judgment* contain lengthy courtroom sequences woven into a larger narrative that consistently refers back to the case on trial. Scenes that take place outside of the courtroom thus nevertheless dramatize the hiring of legal professionals, the preliminary search for and questioning of trial witnesses, or depict other scenarios and characters that feed back into their courtroom scenes. *Compulsion* and *Philadelphians* do not become courtroom films until their final acts, but both build up to a trial sequence that we are made aware of earlier in the narrative and both end in the courtroom, thus permitting the court to act as a site of narrative climax and closure. *Mockingbird* does not end with its courtroom sequence but similarly to *Compulsion* and *Philadelphians* features a legal professional protagonist played by a major male star and preliminary scenes that build up to and make us aware of the trial sequence. Placing the courtroom trial sequence within a series of larger narrative strategies and patterns is integral to any

discussion of its use of convention, the specific choices made in representation, and the meanings contained therein.

The Space of the Courtroom

Considerations of the spatial configuration of the depicted courtroom trial must begin from the fixedness of the form noted by Greenfield et al., who argue that ‘the physical environment is a limited and known quantity and cannot be altered’.¹⁰⁴ This raises several avenues of inquiry, allowing us to examine firstly what is ‘limited’ and ‘known’ about the spatial properties of the court, what meanings these properties are imbued with (especially in regards to establishing a relationship to the court as a symbol of law and justice) and how the representational strategies of the golden age trial film navigate the unalterable and limited qualities of the space.

Representations of the courtroom must acknowledge the division of the space into two areas that evoke the theatre. We could term these areas the stage and the gallery. These two areas are physically separated, with the witness who moves from gallery to stand (and back) typically the only figure permitted to traverse both of them. Yet they are interdependent for several reasons. The sense of a diegetic audience, whether it consists of the spectators who fill the gallery or those we could term the *on-stage* figures of judge and jury, is pivotal to the thematic preoccupations and realistic aspirations of the golden age trial sequences. All engage with the notion of the courtroom as a public arena, one in which the key

¹⁰⁴ Greenfield, Osborn and Robson, *Film and the Law*, p. 62.

participants must address others while subject to a wider scrutiny. I will return to this notion and the dramatic possibilities it permits in my following sections.

Beyond this crude division of stage and gallery, the cinematic courtroom contains a series of subspaces that are also crucial to the dramatization of the trial. The following diagram (Fig. 1) sets up a standard construction of the courtroom space in classical Hollywood trial sequences, following the exact basic layout present in several of the golden age courtrooms:

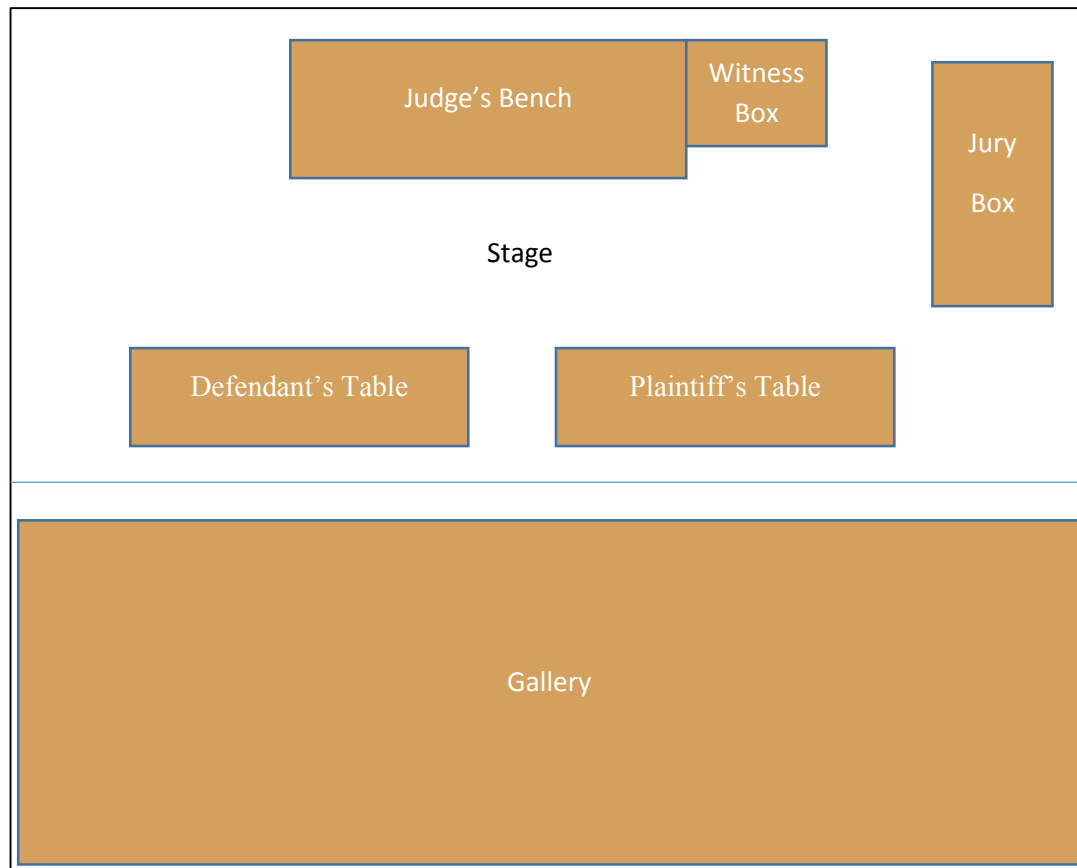


Fig. 1

The diagram contains all of the spaces in the courtroom that are typically deemed necessary, in the interests of narrative development, staging and realism, for a trial procedure to be depicted. Although the positioning of these subspaces

within the courtroom is not entirely immutable,¹⁰⁵ they all figure individually in the golden age film's visualisations of the trial space and invoke similar meanings through their relationships (both physical and symbolic) to one other.

Judge's Bench: The key features of the judge's bench in relation to the courtroom space are its centrality, frontality and the dais that symbolises the judge's standing as he watches over the rest of the courtroom. Its placement figures the judge, whatever degree of attention he is given during the trial sequence, as a symbol of law at work and in power, facing out on the rest of the courtroom. (I will return to the typical depiction of the judge shortly).

Jury Box: This subspace is typically positioned either on the far left or far right of the stage, usually at a right angle to the judge's bench, witness stand, and counsel tables. The placement of the jury box and the subsequent framing and editing of the sequence must negotiate the typical anonymity of the jury (as outlined by Clover) with the recognition that they are the main intended audience of the trial procedure.

Witness Stand: This space is invariably stationed in proximity to the judge's bench, typically situated directly in front of it or on a lowered platform to its left or right. The witness stand's frontality also parallels the judge's bench so that when the witness occupies the stand they face those in the gallery.

Counsel tables: The separate tables, behind which prosecution and defence counsel are stationed during most of the trial, are positioned equidistantly from the centre of the courtroom. This positioning underlines the adversarial nature of the proceeding

¹⁰⁵ It is worth noting that this layout appears more frequently in the American-set golden age criminal trial films. The British court of *Witness for the Prosecution* and the international military tribunal court of *Judgment at Nuremberg* proffer variations on this standard layout but nevertheless include all of the subspaces noted and employ the dominant stylistic strategies used in representing the courtroom that I outline in this chapter.

while also contributing to notions of legal impartiality in its augmentation of the court's balance through design (to which I will return shortly).

Gallery: Compared to the series of smaller seating spaces that make up the courtroom stage, the gallery is comprised only of one large seating area, which can be further divided by aisles along which, for instance, individuals may travel to and from the witness stand when prompted (as in *Inherit* and *Mockingbird*).

Stage: Although we have already referred to the entirety of the non-spectator seating area as the stage, it is perhaps more apt to designate this term specifically to the space between the counsel tables and the judge's bench or jury box, that space which the lawyer can traverse in addressing any combination of the three audiences (gallery, judge, and jury) present in the courtroom, as well as the individuals being questioned on the stand. This space is more officially termed the floor during the trial.

Despite occasional differences in exact positioning, these subspaces share a basic set of relationships to each other that convey the courtroom's power structures and suggests its dramatic potentialities. These relationships are in turn emphasised through conventional patterns of shot composition and staging across the golden age courtroom films. Due in part to the specificities of the narrative scenario, the representational strategies of the golden age trial films exemplify the construction of space in the classical Hollywood film as outlined by Bordwell et al. The imperatives they locate in classical shot composition, of 'centering, balancing, frontality and depth',¹⁰⁶ are also inherent to the spatial configuration of the

¹⁰⁶ David Bordwell, Janet Staiger and Kristin Thompson, *The Classical Hollywood Cinema: Film Style and Mode of Production to 1960* (London: Routledge, 1985), p. 54.

courtroom as outlined above, which privileges a balanced organisation of the space, the frontal view it provides the gallery of the players on stage (and vice versa), and foregrounds the centrality that, depending on the role of the individual, is an immutable (in the case of the judge) or mutable (for lawyer and witness) feature of the court's design. Classical constructions of diegetic space and the basic design model of the courtroom constitute a fit of scenario and style. Witnesses on the stand must face outwards towards the gallery, just as the actor playing the witness faces the camera that captures their performance of the character's testimony (see Figs. 2-3, 11-13, 16-18). The court's subspaces are arranged to provide a sense of balance (for example, through the equidistant spacing of opposing counsels' desks from the court's centre-point, or the arrangement of seating in the jury box or gallery) just as centered shot compositions do in classical spatial configurations. These imperatives tend to coalesce in the representation of the trial; centering, balancing, frontality and depth of composition are evident in the majority of the figures included in this chapter and overwhelmingly characterise the framing and composition of the courtroom sequence across Hollywood cinema. Bordwell et al. highlight 'orientation' as the central purpose of this organisation of the space; again both courtroom design and classical constructions of space share the function of clarifying the resonances of placement and perspective.

The camera most frequently captures the courtroom during the trial sequence in medium to long shots. Possibilities for (or restrictions on) shot composition are related to the construction of the courtroom space and recur across the golden age films, inviting specific readings of the scenario. For example, action that occurs on the stage/floor of the courtroom is consistently presented in medium to long shot compositions that cannot fail to capture some semblance of the

audiences who surround the stage, integrating the theatrical quality inherent to the trial form and its element of public display into the frame. This merges with the expressive and thematic possibilities enabled through the contrast of the lawyer's movement across the stage with the relative stasis of the other players; the awareness of both the camera and lawyer of the importance of the court's audiences is played upon in their respective placements.

Similarly, the witness stand's proximity to the judge's bench means that the judge is often figured into the frame during moments of witness testimony or cross-examination (Fig. 2). One recurrent shot composition across the golden age films captures the witness, judge and lawyer in a triangular composition, with the judge typically occupying a raised position and the witness occupying the lower space of the frame (Figs. 3-4). These triangular configurations work to assert the power relations in the courtroom, conform to classical compositional strategies, including the T-configuration also theorised by Bordwell et al., and begin to convey the basic set of tensions at the heart of the trial scene – between formal and informal, intimate and theatrical, private and public, institution and citizen, evidential and emotional - that inform much of its depiction.



Fig. 2



Fig. 3 (top) and Fig. 4 (bottom)

Note how both triangular compositions in Figs. 3-4 also figure the presence of the ubiquitous United States flag into the frame. The iconography of the courtroom is again largely fixed. We can expect the *mise-en-scène* of the courtroom to include the flag, a reminder of the close connections between law and national ideology.¹⁰⁷ The subspaces and their arrangement accrue particular meanings. Characters deemed indispensable to notions of the courtroom trial also assume an iconographic function; the judge, attired in his black robes, is as much an iconographic element of the court as props and décor. Similarly, the courtroom stenographer, an oft-unmentioned figure who is nevertheless pivotal to cultural representations of the courtroom procedure, acts as the kind of detail that strengthens a film's claims for realism while reminding us of the act(s) of narrativization fundamental to trial procedure.

¹⁰⁷ It is worth noting that the Production Code dictated that 'the use of the Flag shall be consistently respectful', thus again necessitating a 'respectful' representation of the courtroom space.

This basic configuration of the courtroom space can be given specific inflections across films through elements of production design. Discussing the space of the courtroom in the golden age courtroom films, Papke argues that ‘The films feature a range of striking courtrooms, all symmetrical and blessed with handsome accoutrements’.¹⁰⁸ Papke emphasises the ordered nature of the space, simultaneously formal and elegant. The adjectives he employs – symmetrical, handsome – convey the neat organisation of the courtroom that suggest a sense of awe and order. However this strikes me as a generalization. Rougher edges are often necessitated through considerations of setting and scenario. For example, in contrast to the ‘impressive’ courtrooms of *Philadelphians*, *Compulsion*, and *Anatomy*,¹⁰⁹ the period, small-town, relatively impoverished settings of earlier 20th Century Southern communities in *Inherit* and *Mockingbird* necessitate less ornate features of design and décor. This is demonstrated (amongst other things) in the replacement of a witness box with a simple, unadorned chair from which testimony is given in *Mockingbird*, (Fig. 2) and the windows on the wall behind the judge’s bench in *Inherit* that give a view of the local stores across the street from the courthouse. These deliberate choices made in the mise-en-scène, choices possible even considering the fixedness of the courtroom space, invite specific interpretations, and both choices and interpretations will inform the readings of my case studies.

The symmetry Papke notes in the design of the courtroom also recalls the fit between the courtroom scenario and classical stylistic imperatives I outlined earlier, with the courtroom’s symmetry paralleled in the classical cinema’s provision of

¹⁰⁸ Papke, ‘Law, Cinema and Ideology’, p. 1478.

¹⁰⁹ The latter of which was filmed in an actual courtroom.

balance through composition. This fit could be seen to reflect a broader perspective on the law that recalls Rafter's description of a 'respectful' approach to camerawork in trial depiction.¹¹⁰ This approach to visualising the courtroom provided in the golden age trial films corresponds with an avoidance of choices in mise-en-scène that could be deemed excessive or stylised. For instance, close-ups are largely utilised only for particularly emotional witness testimonies and corresponding reaction shots, with medium to medium-long shots the norm. Non-diegetic scoring is rarely utilised during the trial itself (a point I will return to in my discussion of the courtroom spectators). When present, the score features at the end of the sequence, after all procedural elements have been depicted, as in *Philadelphians* and *Judgment*. It is also telling that all of the golden age courtroom dramas are filmed in black-and-white. The generic basis of classical Hollywood's uses of colour and monochrome cinematography have been noted by Bordwell et al. who suggest that 'Technicolor was identified with the musical, comedy, the historic genre, the adventure story, and the fantasy – in short, the genres of stylization and spectacle'.¹¹¹ Thus, the use of black-and-white cinematography could be considered another stylistic choice employed as a gesture of respect to the court of law and the seriousness of the films' subject matter, lessening expectations for 'stylization and spectacle' and diminishing the possibility of any accusations of sensationalism. On occasions when colour cinematography is employed,¹¹² the colour schemes

¹¹⁰ Rafter, 'American Criminal Trial Films', p. 15.

¹¹¹ David Bordwell, Janet Staiger, and Kristin Thompson, *Classical Hollywood Cinema*, p. 355.

¹¹² For instance, in the two case studies included in my melodrama chapter, as well as in examples of other genres including the western [*The Return of Frank James* (Dir: Fritz Lang, 1940), *Broken Lance* (Dir: Edward Dmytryk, 1954)] and even the musical [*Gentlemen Prefer Blondes* (Dir: Howard Hawks, 1953)]

typically remain sober and respectful, utilising respectful, naturalistic colour tones including the conventional mahoganies of the courtroom's benches and pews.

And yet a total acquiescence to 'respectful' representation of the courtroom would imply a retreat from the elements of the trial that make the form most suited to dramatization. It is here we can return to Bordwell et al., and their assertion that the spatial construction of classical cinema is fundamentally in service of an 'anthroponcentric commitment'.¹¹³ What centrality, balancing, frontality and depth draw our attention to in actuality are the human individuals who occupy the courtroom space and complicate its organisational aspirations of neutrality and reason. If the design features of the courtroom gesture to the ideals of natural law, as outlined by both Rafter and Pribram,¹¹⁴ the consistent human presence gestures to the less stable domain of man-made (or positive) law. The series of subspaces discussed earlier have a symbolic resonance even when vacant, but when occupied with the correct players they set into motion a drama of conflict(s), revelation, and pressured and weighted expression and gesture. Close ups during the golden age trial scenes do not depict the court's objects but rather individuals in states of emotional excitement. Lighting is predominantly even and employed with recourse to capturing individuals' faces with as much clarity as possible. Camera movement is rarely independent of the characters, which lends an added layer of meaning to the lawyer's ability to traverse the stage (and its contrast with the stasis of others). Even the relatively obtrusive camera movement of *Judgment* (consisting of recurrent arcing movements, or sudden zooms) acts in service of the characters and the pertinent relationships established in the courtroom (see Figs. 5-8), and its

¹¹³ David Bordwell, Janet Staiger, and Kristin Thompson, *Classical Hollywood Cinema*, p. 54.

¹¹⁴ See Review of the Literature, pp. 39, 48.

compositions conform to classical expectation. Thus even the ‘inventive’ camerawork that Clover detects in trial depiction as a way of combatting the claustrophobic setting primarily functions in service of this same anthropocentric commitment.¹¹⁵



Fig. 5



Fig. 6



Fig. 7

¹¹⁵ Clover, ““God Bless Juries!””, p. 265.



Fig. 8.

However, rather than isolating this anthropocentrism, I believe that courtroom scenes construct their specific appeal and central thematic network through the interplay of the representations of space and character, and the parallel tensions between natural and positive law. The ‘imperative contrast’ Jessica Silbey identifies in courtroom representation between the law – ordered, inhuman - and the citizen – emotional, human – can be located across the construction of space in the golden age trials.¹¹⁶ Although Silbey sees this contrast as primarily figured through a binary of emptiness and occupation in relation to the site of the court, I view it as a consistent, structuring element of representational strategy. The patterns I have located across the golden age constructions of courtroom space include the triangular configurations, the unavoidable presence of audiences within framings, an adherence to ordered and symmetrical compositions, and an overall fit between classical compositional imperatives and the dominant features of the courtroom’s design. All of these patterns speak to a tension between an idealised natural law, exemplified in the resonances underlying attempts to construct order and balance through space, and fallible positive law, at the mercy of all of the variables of human thought, action and emotion. In order to extend our consideration of this tension and its symbolic and dramatic significance, I wish now to consider

¹¹⁶ Jessica Silbey, ‘Patterns of Courtroom Justice’, p. 107.

dominant patterns of representation in relation to another fixed quantity, which is the characters who occupy the court during trial.

Legal Actors: The Players in the Courtroom

Examining patterns of spatial representation in the golden age courtrooms has revealed what I see as a central, structuring relationship between the court of/as law and the individuals who occupy the space. This relationship throws into relief the tensions between natural and positive law. With this in mind, I wish now to look at patterns of representing the characters we expect to appear in the courtroom scene. I will focus initially on those we could deem as working *for* the institution of the law, beginning with the judge and jury, whose presences I will argue are primarily symbolic, before considering the more rounded characterisation of the golden age lawyer. This will introduce a discussion of the legal hero or justice figure, who seems particularly integral to the golden age courtroom film and its constructions of law and justice. Finally, I will consider those present whose relationship to the courtroom differs, including the gallery spectators and journalists, and the pivotal legal outsiders who bring their charges, defences and testimonies to the court: defendant, plaintiff and witnesses.¹¹⁷

¹¹⁷ There are several minor figures we also expect to appear in the courtroom scene, including the aforementioned stenographer and courtroom guards. However, their function is primarily at the iconographic level and rarely do they contribute to the dramatic development of the trial scene, so I will not devote any extended discussion to their representation.

The Judge

Papke describes ‘traditional’ depictions of the judge (implicitly associated with pre-1970s popular culture) as ‘flat’,¹¹⁸ arguing that the traditional cinematic judge

lacked individualizing detail and was also static, that is, he did not develop or change in the course of the film [The judge] seldom interacted with the other characters in significant ways or altered the central course of events. In general, pop cultural judges were supposed to rule on objections, maintain order in the courtrooms, and sit sagely on high wearing a judicial robe.¹¹⁹

This is certainly true of the judges in *Mockingbird*, *Compulsion*, *Witness* and *Philadelphians*, none of whom, crucially, we ever see outside of the trial. The golden age judges are in these instances primarily symbolic presences, and this is reflected in the fact that, of all of the figures present in the courtroom, they are the ones most frequently featured in neat, symmetrical compositions, framed centrally and frontally, oftentimes with even the items that surround them on the desk arranged symmetrically (Figs. 9-10). The respectful formal strategies outlined in the previous section parallel the respectfully flat depiction of the judge in these films. Issues of casting are also relevant to considering this characteristic flatness. Judges are not played by stars with personas that will create assumptions regarding the personality of the character,¹²⁰ but by character actors either relatively unknown to

¹¹⁸ David Ray Papke, ‘From Flat to Round: Changing Portrayals of the Judge in American Popular Culture.’ *J. Legal Prof.* 31 (2007), p. 131.

¹¹⁹ Ibid, pp. 131-132.

¹²⁰ The casting of Spencer Tracey as Judge Dan Haywood in *Judgment at Nuremberg* is the notable exception of the golden age trial films.

the general public,¹²¹ or known for playing similarly authoritative characters.¹²²¹²³

Papke suggests that, despite the judge's power, apparent in the recurrent moments in which the figure will rule over objections or admonish a murmuring audience, he possesses no real agency. The judge's interjections augment the appearance of realism and underline the codes of conduct governing the trial, but his narrative function does not permit him the same level of dramatic involvement as, for example, a stirring closing speech from the defence attorney or a particularly revelatory piece of witness testimony.



Fig. 9



Fig. 10

¹²¹ This would be suggested, for example, in the fact that neither of the respective actors playing the judge in *Compulsion* and *The Young Philadelphians*, was given a screen credit for the role.

¹²² Paul Fix, who plays Judge Taylor in *To Kill a Mockingbird*, would have been best known to audiences at the time for his role as a Marshall in the Western television series *The Rifleman* (1958-1963).

¹²³ The casting of Joseph N. Welch, a non-actor most well known for being chief counsel for the United States army during its investigation for Communist activities in the Army-McCarthy hearings of 1954, as Judge Weaver in *Anatomy of a Murder* may seem anomalous, but actually exemplifies the qualities shared by all of these casting choices. Welch's known background and unaffected performance style construct the flatness required to inspire respect for the character, as does the casting of the character actors in the other films.

The aforementioned flatness is not the only model of characterisation in the golden age sequences. Levi broadly echoes Papke's statements, arguing that generally 'movies seem to portray judges as standing for justice itself',¹²⁴ but also detects 'four distinct ways' in which the judge is characterised: 'strictly and sternly, with a folksy charm, wearily or cynically, or sometimes corrupted by greed or another nefarious motivation', adding that the last category is 'the exception rather than the rule'.¹²⁵ Although the judge is often a figurehead, a symbol for justice, he can also be imbued with personal characteristics constructed through the level of interaction with other characters inside and outside of the courtroom. Thus the 'folksy charm' of Judge Weaver (played by actual legal professional Joseph N. Welch) in *Anatomy* makes the character more memorable than the 'strict, stern' judges of *Compulsion* and *Mockingbird*. However, even when personal characteristics are evidenced they reflect positively on the judge as both an element of the legal system and an individual that works in the best interests of justice, as in *Anatomy* and *Judgment*, whose judge protagonist I will discuss in more detail as an example of the legal hero.

To understand this, it is worth considering again why the flat characterisation is so prevalent with regards to the affirmation of the models of law and justice the films present. Central to viewer expectations that the legal system is working is the belief that the judge remains impartial. Thus one mode of invoking this belief in the golden age films is through the combination of the aforementioned lack of characterisation and balanced compositional framings that construct the

¹²⁴ Ross D. Levi, *The Celluloid Courtroom*, p. 43.

¹²⁵ *Ibid.*, p. 59.

‘flat’ depiction. Papke argues that golden age ‘characterisation depends on a political “centering” of the legal professionals’ and accordingly describes the judges in these films as ‘nonpartisan’.¹²⁶ This again correlates to the notions of a respectful form, particularly evident in the inclusion of the term ‘centering’. I would complicate this line of argument and suggest that occasionally political allegiances are suggested or even stated within the films, but that even this serves eventually to indicate the judge’s lack of bias when making rulings or otherwise contributing to trial procedure.¹²⁷

Thus we begin to see how the judges of golden age trial films – all white men¹²⁸– function symbolically to remind us of the workings of the legal institution and reflect positively its idealised non-partisan status. They are more often figured as symbols than individuals, evidenced in the symmetrical positions they frequently figure within, and even when more fleshed out as characters, are imbued with

¹²⁶ David Ray Papke, ‘Law, Cinema and Ideology’, p. 1476.

¹²⁷ For example, both *Inherit the Wind* and *To Kill a Mockingbird* suggest political affiliations in their judge characters. In the latter film, the judge’s displeasure with the guilty verdict handed down to African-American defendant Tom Robinson (Brock Peters) by a racist jury is made evident by a shot that captures his displeased expression and subsequent departure from the court, incorporating most tellingly the force with which he slams the door behind him. The judge of *Inherit the Wind* is inversely heavily suggested to share the conservatism of the small-town community over which he observes, to the extent of being accused of bias during the trial by defence attorney Henry Drummond (Spencer Tracy). Yet, it is integral to the film’s affirmations of their constructions of good law and justice that this personal perspective co-exists with (what the film deems) the consistent fairness of the judge’s rulings – and, in the case of *Inherit the Wind*, his final verdict - in the courtroom.

¹²⁸ I have located in my research only two counter-examples across the range of Hollywood films viewed: a white female judge (played by Myrna Loy) in *The Bachelor and the Bobby-Soxer* (Dir: Irving Reis, 1947) and an African-American male judge (Juano Hernandez) in *Trial* (Dir: Mark Robson, 1955). In the latter, this decision is given narrative and thematic function as part of the film’s engagement with themes of racial prejudice and trial manipulation. And in the former, the decision is part of the film’s generic status as a romantic comedy (Loy’s character becomes the female love interest at the centre of the narrative, and her career is given less dramatic weight due to the comic mode of the film).

positive characteristics that reflect well upon the American legal institution and its constituent elements.¹²⁹

The Jury

The trial jury shares with the judge a primarily symbolic presence in the golden age trial sequence, the judge's flat characterisation paralleled in the non-individualised jury. The jury's presence is often conveyed through the body language and gesturing of the mobile lawyers more than their appearance on screen. When isolated shots of the jury are included, the level of anonymity is conveyed through the lack of close-ups and individualising detail. The jury, when we do see them, is typically all-white and all-middle aged, with a mixture of male and female jurors. These issues of representation must be considered with regards to Clover's argument asserting the viewer's role as jury surrogate in the trial film and the ideological implications of this positioning. Levi echoes Clover in asserting that the lack of attention given to the jury 'is not an attempt to dismiss its centrality to the proper functioning of the legal system' but rather a decision made 'out of respect for the jury's mystique. It seems the jury has been relegated to being an extra in legal cinema [...] but in actuality it constitutes a character unto itself, whose mere silent presence seems a necessity for the portrayal of a just legal system'.¹³⁰

However, when a film attempts to raise certain social or legal issues through its depiction of the jury (as in accordance with Clover's notion of the double-trial structure) attention may be drawn to specific configurations of the jury. For

¹²⁹ The latter depiction corresponds with the more general treatment of professional patriarchal figures and the spaces they occupy in the classical Hollywood cinema. Doctors and their consulting rooms, or priests and their studies, are often imbued with an unquestioned and benevolent wisdom that refuses any interrogation of the suitability of either role or individual within American society.

¹³⁰ Ross D. Levi, *The Celluloid Courtroom*, p. 84.

example, *Mockingbird* considers the likelihood of bias underlying the deliberation of twelve white males from a small Southern community in the case of an African-American male accused of raping a white woman.¹³¹ But otherwise the jury's relative homogeneity is employed, as Clover argues, in order to avoid critiquing the institution of the jury. Their only action is a crucial one, the reading of the verdict, in which the jury foreman comes forward to state the jury's ruling (included in *Witness*, *Philadelphians*, *Anatomy* and *Mockingbird*). Even at this moment, the individual foreman has no presence beyond this action; it is as if, in order to assert the fundamental soundness of the jury system (to paraphrase a speech made by Parnell [Arthur O'Connell] in *Anatomy*), "twelve minds have become one" at the point in which the verdict is read.

Lawyers

The centrality granted to the lawyer is one of the distinguishing features of the golden age courtroom drama, with the lawyer hero archetype (to which I will return shortly) featuring in *Witness*, *Compulsion*, *Philadelphians*, *Inherit* and *Mockingbird*. The defence lawyer in particular is granted a level of identification, narrative attention and psychological motivation denied the 'flat' figures of judge and jury in the golden age courtroom films, and in each of the aforementioned examples is featured as the protagonist or at least a major identification figure by the time we reach the courtroom. This focus on the defence lawyer in the golden age courtroom narratives is reflected in the casting of such major stars as Gregory

¹³¹ This is also an implication of *12 Angry Men*. It is only the presence of dissenting Juror #8 (Henry Fonda) that prevents a unanimous 'guilty' verdict that is revealed to be influenced by the prejudices of a number of his fellow jurors.

Peck (*Mockingbird*), Paul Newman (*Philadelphians*) and Orson Welles (*Compulsion*) in defence lawyer roles.

The casting of these stars already draws out a number of related conventional elements in the representation of golden age lawyers. The most immediately identifiable is that all of these stars, and thus all of the lawyer characters, are white males.¹³² This reflects and contributes to the typical gendering of the court on numerous levels, the significance of which I will return to. Star casting also suggests that the role of lawyer can easily be a showy one that draws the viewer's attention through combination with the conventions of trial procedure depiction. A theatrical analogy again proves useful here – the lawyer is the star performer, the lead actor of the trial-as-theatrical-performance. This convention ensures that the character is given an agency that others in the courtroom are not regardless of the depth of characterisation with which he is imbued, an agency partly realised through the aforementioned distinction between the lawyer's motion and the stasis of the other courtroom players. Similarly, the lawyer's typical command of oratory and rhetoric is specific to this character and integral to a scenario in which mastery of the nuances of verbal expression is central. The importance of this is made evident in the procedural conventions of witness cross-examination and opening/closing remarks (both of which I will consider in more depth shortly).

I have referred mainly to the defence counsel because it is with these characters that the predominant focus of the golden age trial film lies. Prosecution

¹³² This is not to say that there are no female lawyer characters in classical Hollywood productions. However, in the few instances where female lawyers do appear as significant characters, as in *Adam's Rib* (Dir: George Cukor, 1949) and *Smart Woman* (Dir: Edward A. Blatt, 1948), the generic terrain of the film tends towards the comic and/or romantic.

is not as well-defined in terms of characterisation,¹³³ but their relative flatness is more ambivalently rendered than that of judge and juror. An exemplary characterisation of the prosecutor is Claude Dancer (George C. Scott) in *Anatomy of a Murder*. Dancer, who is rarely seen outside of the courtroom, unlike his counterpart, defence counsel Paul Biegler (James Stewart), is defined largely by his ruthless efficiency, including the use of “courtroom tricks” such as blocking a witness from Biegler’s view during examination. Part of the ambiguity of *Anatomy* lies in the gradual realisation that Biegler is not above such tricks himself, yet the film more overtly and conventionally exacerbates the antagonism inherent to the prosecutor type through its depiction of Dancer. These antagonistic qualities are also aided by casting. Whereas star performers take on the heroic defence roles in the majority of the golden age legal films, prosecution lawyers are portrayed by character actors who project fewer positive characteristics from an existing persona, as in *Witness*, *Philadelphians* and *Mockingbird*.¹³⁴

I wish to return to notions of the trial-as-performance in thinking about dominant representations of the lawyer. I have located in the golden age trial films several recurrent strategies of performance that relate also to casting and persona, and which I will elaborate on when considering the justice figure shortly. The film actor’s performance of the lawyer entails a second performance within the diegesis, to be given during the trial, a condition which the golden age films negotiate in several ways. Two different performance strategies are evident across the golden

¹³³ One exception is *Judgment at Nuremberg*, where the choice to feature the judge as protagonist changes the emphases of the trial narrative – prosecution and defence counsel are more balanced in terms of characterisation as the film’s primary structure of identification resides with the presiding judge.

¹³⁴ One notable exception in the golden age films is *Inherit the Wind*, which underlines the characterisation of prosecuting attorney Matthew Brady as a celebrity, showman and performer within the diegesis by casting a star, Fredric March, in the role.

age defence lawyer roles that serve a similar function despite their contrasting means. The defence lawyer can be performed with an overt and displayed expressivity (evident in the performances of Newman, Welles, and Widmark [in *Judgment*]) or through a style of underplaying (utilised by Peck and Tracey¹³⁵). The former conveys a more visibly impassioned commitment to the defence counsel role, the latter a quieter but no less powerful commitment; the shared element is that we view these performances as sincere reflections of the actual attitudes of the lawyers towards their cases.¹³⁶

A Note on the Justice Figure

It is at this point that I wish to consider in more detail the notion of the justice figure with respect to the golden age trial films. One shared feature of the three aforementioned character types across the golden age trial films is that they permit the development of a heroic characterisation that correlates with the justice figure archetype theorised by Rafter. Each of the golden age films feature an individual working for the legal institution, as judge (Dan Haywood [Spencer Tracy] in *Judgment*), juror (Juror #8 [Henry Fonda] in *12 Angry Men*) or most frequently, defence attorney (Atticus Finch in *Mockingbird*, Jonathan Wilk in *Compulsion*, Anthony Lawrence in *Philadelphians*, and Henry Drummond in *Inherit*) as the central justice figure. All are depicted as crusaders for justice who face a series of challenges posed by others' assumptions, prejudices and abuses of

¹³⁵ To clarify, I refer here to Tracey's performance in *Inherit the Wind*. I make this distinction because the actor also appears as the judge protagonist of *Judgment at Nuremberg*.

¹³⁶ The ambiguous meanings constructed through Biegler's courtroom performance in *Anatomy of a Murder* is anomalous within the golden age corpus, again suggestive of the film's more problematic relationship to the dominant affirmative representation of the adversarial trial system located across the other films.

the legal system. Jessica Silbey succinctly encapsulates the centrality of these characterisations to the images of American law and justice invoked:

These films exemplify liberal legalism as they embolden the viewer's expectations in law by rooting the promise of justice in the determined and enlightened individual. We come to believe that although the legal system can be a tortured place, a determined and enlightened individual (a legal hero, for example, whose enlightenment comes from the film's self-conscious display) can successfully navigate the legal system, participating in and thereby enacting the justice he has learned to demand from the idealized rule of law.¹³⁷

Silbey conveys how these films work to 'embolden' viewers' belief in law despite (and partly through) their focus on the difficulties of achieving justice by proffering the legal hero as the definitive emblem of justice. Silbey notes the importance of the ideals of American liberalism, including fairness, freedom and equality under the law, to the films' constructions of justice and hence their representation of the justice figure. It is evident that the very flatness of the dominant representations of judge and jury as outlined above can affirm these ideals of fairness and equality. But it is also worth considering how the more rounded characterisations granted to the legal hero correlate to these ideals.

The justice figure characterisation necessitates a greater depth than the dominant patterns of representing the figures of judge and jury provide, which is why the legal heroes of *12 Angry Men* and *Judgment*, Juror #8 and Judge Dan Haywood, are anomalous examples of, respectively, the golden age juror and judge. What we learn about these characters outside of the trial setting must reflect positively on what we believe their intentions and motivations to be within it. The

¹³⁷ Silbey, Jessica, 'A History of Representations of Justice: Coincident Preoccupations of Law and Film' in Masson, Antoine and O'Connor, Kevin [Eds.], *Representations of Justice* (Brussels: Peter Lang, 2007), p. 146.

scenes of Atticus Finch's home life that precede the trial scene of *To Kill a Mockingbird* convey that he is the 'determined and enlightened individual' we expect to see standing for liberalism's ideal of justice in court.¹³⁸ This conflation of characteristics presented inside and outside of the courtroom is also exemplified in the character of Judge Haywood in *Judgment at Nuremberg*. Haywood is described by Suzanne Shale as possessing 'all of the down-home, plain-speaking, salt-of-the-earth, and man-of-the-people American virtues',¹³⁹ but contrasts this with the character's 'more complex and ambivalent' portrayal in the screenwriter's initial outline.¹⁴⁰ The casting of Spencer Tracy in the role is clearly meaningful in this instance. Tracy's persona and acting style convey a sense of straightforwardness and decency, shown in his casting as an embodiment of liberal humanism in films such as *Bad Day at Black Rock* (1955, Dir: Robert Sturges). This lends him a gravitas that suits him to the portrayal of the justice figure.¹⁴¹

The defence lawyer is the most persistent embodiment of liberal legalism because, as I have previously detailed, he is the court's most active agent, and the trial form enables him possibilities for rhetoric that can espouse the ideals of liberalism. This is evident in the speechifying of *Compulsion*, *Mockingbird* and *Inherit*, to be considered at more length shortly. But, to return to the importance of performance to this dominant representation, it should be noted that the courtroom's inherent theatricality can connote an ethically ambiguous notion of lawyer performativity that the golden age films must negotiate. The aforementioned

¹³⁸ Indeed, the cultural resonance of the character of Atticus Finch has remained so prevalent that the American Film Institute named Finch the top movie hero of all time in 2003.

¹³⁹ 'The Conflicts of Law and the Character of Men: Writing *Reversal of Fortune* and *Judgment at Nuremberg*' *University of San Francisco Law Review* 30 (1995), pp. 999-1000.

¹⁴⁰ *Ibid.*, p. 1008.

¹⁴¹ Similar considerations of persona seem integral to the casting of Henry Fonda and Gregory Peck in their respective justice figure roles.

convergence or consistency of characteristics displayed both in and out of the courtroom is one method of managing this. Another method is to displace broader ambiguities surrounding notions of performance by guiding audience responses to what are presented as distinct types of performing. In *12 Angry Men* the justice figure Juror #8, following his initial attempts to convert the jury to his perspective, has a conversation with Juror #7 (Jack Warden). The two men are contrasted through their opposed responses to the case they are deliberating over as well as aspects of costuming, physicality, stardom and performance. Their exchanges reveal that Juror #7 is a salesman, another profession inextricable from notions of performance. By contrasting Juror #8's methods of persuasion in the jury room to his own (which he characterises through dialogue as "laughs, drinks, jokes, tricks"), Juror #7 diagnoses the other as a "soft sell" salesman. This contrast is integral to distinguishing between modes of performance as a way of gesturing to the moral and judicial rightness of one over the other. Juror #7 and Juror #8 present opposed relationships to the film's construction of justice that are partly brought out through diegetic considerations of performance; the showier performer works towards emptier goals (the sale of marmalade) and is figured as obstructing justice in the jury room, whereas the "soft sell" character works towards the film's morally sanctioned objective of achieving liberalistic justice. The notion that Juror #8 is acting, and the ethical connotations raised therein, is suggested by Juror #7 but undermined through the subsequent distinction.¹⁴²

¹⁴² The dialectical connotations of underplaying with sincere liberalism and overacting with reinforcements of injustice reoccurs in the contrast between the performance styles of Henry Drummond/Spencer Tracey and Matthew Brady/Fredric March in *Inherit the Wind*, the latter being referred to as "all shine and no substance".

Spectators and Journalists

The presence of spectators in the courtroom is vital to the specific terms of the courtroom trial sequence. I noted in my first section that the compositional patterns of the trial sequence consistently figured the audiences of judge, jury or gallery into shot framings, entailing and maintaining an awareness of audience that I posit as integral to the specific dramatic appeal and thematic potentialities of the trial scenario. The spectatorship's presence conveys a slightly different meaning to the other courtroom audiences of judge and jury, however. The crowded spectatorship conveys that the trial has become a diegetic spectacle within a broader social context of the film's world, conveying a public interest in the case on trial that serves to underline for the viewer the form's dramatic potential. All of the golden age trial films contain crowded courtrooms – some, as in *Mockingbird*, are visibly overcrowded – that construct broader meanings. The presence of a crowded spectatorship can invoke notions of wider communities both generally (in terms of American society) and specifically (for example, the small Southern U.S. communities of *Mockingbird* and *Inherit*). The specific handling of the spectatorship within individual films can inflect the tone and narrative meaning of the courtroom space and trial scene just as much as other elements of mise-en-scène I discussed in the initial section of this chapter. I will now detail how this is achieved.

Firstly, it should be noted that the courtroom spectatorship allows for the film's inclusion of key figures within the narrative inside the court despite their exclusion from the procedure of the trial itself. Any character who has a narratively-weighted relationship to the central players “on stage” can be included in the trial scene through their presence in the gallery. Reaction shots of these

individuals can guide the viewer's emotional response or display the diversity of perspectives towards the events occurring on stage. In some instances, a momentary focus on these characters provides brief respite from the tonal gravity of the trial.¹⁴³ However, the broader, non-individualised crowd are also important to the courtroom trial sequence's narrational strategies. A useful comparison can be made between the courtroom spectatorship and the Greek chorus; the collective, non-individualised grouping comments upon the main narrative action and acts as an ideal audience, guiding the responses of the spectator to the diegesis.

The spectatorship has an important aural as well as visual function, in effect replacing the musical score typically absent from the trial scene. Two recurrent reactions from the courtroom crowd attest to this function. Firstly, laughter from the spectators, particularly during earlier witness testimonies, figures as a way to ease the viewer into the courtroom trial before the tonal shift into a more serious register.¹⁴⁴ By the time the final witness or defendant makes it to the stand, it is highly unlikely that there will be any laughter in the courtroom. Laughter also demonstrates the manner in which courtroom trials are considered entertainment for audiences, diegetic and otherwise, particularly when elicited by wisecracking comments from any of the courtroom players.

The second recurrent aural device in the depiction of the courtroom spectatorship is the murmuring of the crowd, which occurs most often after particularly dramatic, unexpected, or shocking information has been relayed during

¹⁴³ The character of Nurse Plimsoll (Elsa Lanchester) in *Witness for the Prosecution* is exemplary in this regard, interjecting humour into the trial sequences and underlining the theme of court as theatrical spectacle.

¹⁴⁴ Some courtroom films use this laughter to create a sense of irony or dissonance; one shot from *Compulsion* shows the two defendants, guilty of murdering a young child, laughing at one of the defence lawyer's wisecracks along with the majority of the spectators, while behind them, one defendant's parents appear visibly anguished, a reminder of the gravity of the situation.

the trial. Such murmuring guides audience reaction so that we can share in these feelings of investment. Its consistent inclusion on the soundtrack in response to other tropes of the courtroom drama (including the calling of a surprise witness to the stand, or a bold accusation made by the current witness) signals to us, the trial's *other* audience, that such developments exist outside of the expected schema of events within the diegetic scenario and thus are particularly dramatic.¹⁴⁵ It also relates to the tensions between formality (and ritual) and spectacle at play in the trial sequence, especially apparent in the response of the judge to noise from the spectatorship. His invariable orders that the gallery remain silent reminds us of the expected mode of behaviour (and often provides another aural jolt with its accompanied gavel banging). The trope of the courtroom's murmurings signalling a particularly dramatic development in the trial appears in all of the golden age trial sequences, but has received no critical attention. Its inclusion is taken for granted, but it is an integral device to the specificities of the trial scene's narration.

The presence of journalists in the courtroom functions similarly to the broader spectatorship, demonstrating more acutely the wresting of the personal into the arena of public spectacle. Their inclusion can suggest that the level of public interest in the trial has reached the national scale, reinforcing the socially relevant or potentially sensationalised nature of the cases at hand. The depiction of journalists can paradoxically critique the crassness of the media's intrusion into personal lives and reassert the validity of the interest we, the viewer, have in the case. Nevertheless, the presence of newspapermen is often figured as an intrusion,

¹⁴⁵ Of course the standardization of these very tropes paradoxically creates viewer expectations for them to appear. Murmuring thus often asserts diegetic shock to events the viewer had expected, thereby reminding us, despite our very expectation, that this development is a dramatic one within the diegesis.

with the accompanying photographer and the flashes of light emitted from his camera as he photographs dramatic events the most overt reminder of this intrusiveness (as when a photographer appears into the frame to take a photograph following a character's physical collapse in court in *Compulsion*).

Once again, the conventional representational strategies and narrative functions applied to particular characters (or in this instance groupings), can be inflected by a particular film's thematic emphases. *Inherit the Wind* contains what could be described as an intensification of our awareness of the spectatorship and their typical meanings in line with the film's thematic engagement with issues of rhetoric, the mob mentality inspired by religious fundamentalism, political campaigning and celebrity. Uelman examines how the film depicts the trial as a 'circus' and this entails a play with these conventions and representational strategies,¹⁴⁶ including frequent verbal comments from individuals in the gallery and the overtness with which Brady's statements are directed to his fans in the gallery rather than the jury. Thus, the specific focus on the spectatorship in *Inherit* uses the aforementioned conventions expressively by intensifying their features.

Legal Outsiders: Witnesses, Plaintiffs and Defendants

The remaining characters who play a part upon the courtroom stage are those in the particularly pressured circumstance of giving testimony to the courtroom: plaintiff, defendant and witness. These characters appear before the courtroom and provide a version of events congruent with either the prosecution's or defence's account, that we can expect to be challenged by the opposing counsel.

¹⁴⁶ G.F. Uelman, 'Trial as a Circus: Inherit the Wind', *USFL Review* 30 (1995), pp. 1221-1124.

Before looking in more detail at the patterns of representing these characters, I would like to consider several specific features of this figure's relationship to the courtroom trial. All of the golden age trial scenes draw upon the assumption that, while not everyone has the specific skillset to be a lawyer, judge, or even a juror, almost any individual can be called to the witness stand. The golden age films feature a broad selection of witnesses who can, for a wide range of reasons, be deemed vulnerable and who are represented accordingly. It is most often through the treatment of vulnerable individuals on the stand that the golden age films, broadly respectful of the system of law otherwise, gesture to the systemic and ethical problems underlying the adversarial legal procedure.

The witness stand is where the tensions between the ideals of liberal legalism and the dominant structures of difference in American society (expressed primarily around class, race and gender) become most apparent. The further outside of the courtroom's dominant cultural category of white, educated male that an individual on the stand exists, the more tension can be wrung from their trial appearance. It is worth noting how often the justice figure, invariably a white male, works to achieve justice for a figure who falls outside of one or more of these cultural categories, a pattern present in *12 Angry Men*, *Mockingbird* and, to a lesser degree, *Anatomy*. In films where this is not the case, the golden age trial scenes retain other witnesses who are characterised as particularly unsuited to the courtroom environment through cultural categorisations. Before considering in more detail how this relationship to the courtroom can be conveyed, it is worth detailing the types of characters we expect to feature in the witness stand and the representational strategies that I argue vary depending upon the character's emotional proximity to the case on trial.

A dominant method of structuring the drama of the trial is to depict firstly the testimonies of individuals either entirely distanced from the personal relationships involved in the case on trial, or only incidentally related to them, before progressing to the testimonies of those who we would consider to be closely – and frequently emotionally - involved. This development builds tension, as the testimony of characters not personally involved in the crime on trial constructs a case-building narrative (of prosecution or defence) that can be complicated, opposed or reinforced as the sequence progresses. This structure also attests to the tension between reason and emotion that Pribram sees as central to the thematic structures of the law and order genres.¹⁴⁷ The initially rational explanations of the earlier witnesses align with concrete notions of guilt and innocence (and right and wrong) as being discernible and accessible through similarly concrete facts and truths. But the rigidity of these notions are complicated (even if temporarily) by subsequent testimonies that gesture to the messiness of human emotions.

One recurrent example of the first type of testifier is the expert or official witness, present in *Witness*, *Compulsion*, *Anatomy*, *Inherit* and *Mockingbird*. Typically a male professional such as a doctor, psychiatrist or scientist, the expert witness provides what is assumed to be an objective reasoning on, for example, the murder victim's cause of death or the psychological state of the accused. The courtroom sequence often marks their first and only appearance within the narrative. They are, like the judge, patriarchal figures given limited shading in terms of characterisation beyond their professional status, and whose unquestioned authority holds the capacity to corroborate with or condemn the accused. The same applies for the law officials also liable to be included among these initial

¹⁴⁷ See Review of the Literature, p. 47.

testimonies, including police officials (featured in *Witness* and *Mockingbird*). The defining feature of this type is that they appear in a professional capacity, with little to no personal or emotional investment in the outcome of the case.¹⁴⁸

A second grouping of case building witnesses includes minor characters that may or may not have appeared in the diegesis prior to the courtroom trial but whose relation to the main narrative remains incidental. The treatment of their testimony, like that of the previous witness type, is dictated by their relative distance from the defendant – they may work for or alongside, or simply be acquainted, with the individuals involved in the case, but they are demonstrably not personally close to them in the same terms as a family member, close friend, or romantic partner. The treatment of these characters on the stand can be used as a barometer of the sequence's tone at the point of their appearance. Thus, when Janet (Una O'Connor) the housekeeper of the woman whose murder Leonard Vole (Tyrone Power) is on trial for in *Witness*, appears on the stand, the character functions largely as comic relief before the sequence progresses into the more serious register of the subsequent examinations.

The figures who are personally involved in the relationships unveiled before the trial belong to the third type. This will typically include the defendant or plaintiff. The golden age films typically convey that these witnesses have something to lose by appearing on the stand, such as the exposure of a secret or destruction of their own character by the opposing attorney, and so their testimonial appearances are geared for drama in a way the aforementioned groups of witnesses

¹⁴⁸ Another manner in which *Anatomy of a Murder* is anomalous within the golden age grouping is in its more subversive, self-conscious treatment of the expert witness trope than the other films, including two psychiatrist witnesses who provide conflicting opinions on the state of the accused.

are not. Unalterable conventions such as the spatial relationship of the witness stand to the rest of the court and the examination-cross examination pattern of questioning take on particular meanings in relation to this type of witness, signifying their exposure, the claustrophobia of the environment, and the expectation that their testimony will be challenged by a skilled cross-examiner. Norman Rosenberg's legal insider/outsider distinction and related notion of legal translation become especially pertinent to the representations of these witness archetypes.¹⁴⁹ The vulnerability of the witness, placed in an unfamiliar and highly pressured scenario, is often emphasised in the golden age trial scenes through a number of conventions. These include narrative tropes such as the recurrent instance of a witness being asked to speak up or repeat themselves at a moment when they have just divulged especially personal or painful information (featured in *Compulsion*, *Anatomy* and *Judgment*), and, most frequently, the witness breakdown or outburst, to be considered in detail in the next section.

Different representational strategies across the types of witnesses convey the character's relationship to the case and the courtroom, and the viewer's relationship to the character. Consider three shots from the trial sequence of *Compulsion* that comprise the first images of a specific character on the stand. The first two characters, both doctors who provide a psychiatric opinion on the two young men who have murdered a child, are introduced in medium-long to medium shot that incorporates in both instances the examining lawyer into the frame (Figs. 11-12). The relative distance of the camera corresponds to the lack of emotional investment, on both the part of the character (towards the key individuals involved in the trial – defendant, plaintiff, deceased, etc.) and the viewer (towards this

¹⁴⁹ See Review of the Literature, p. 35-38.

witness). However the shot of Ruth (Diane Varsi), a classmate of the two men who was romantically involved with one of them, introduces her in a tight close-up that immediately suggests a greater emotional identification (of both viewer with Ruth's predicament and of Ruth with the events on trial) by making her expression the sole focal point of the shot (Fig. 13). This compositional intensification is also present in the trial sequences of *Anatomy of a Murder*, where the close-ups that have generally been avoided during the prior examinations are utilised when Laura Manion (Lee Remick), the woman whose alleged rape at the hands of bartender Barney Quill led her husband to shoot him (the act that has instigated the trial), takes to the stand.



Fig. 11



Fig. 12



Fig. 13

This last point brings us into the realm of how identification relates to the creation of viewer engagement with the drama of the trial. I would like to continue with this thread of inquiry in my third section, as I consider the courtroom's drama alongside representations of the trial's procedural elements.

Procedural and Dramatic Development: Courtroom/Drama

I have detailed the dominant features of the golden age courtroom scene's *mise-en-scène* and its patterns of representing the characters who occupy the space. These discussions have pivoted around considerations of the choices available when representing the fixed elements of the trial, and the meanings created by the choices made. This final section will synthesise the previous findings with an examination of the intersection of narrational strategies with the remaining major fixed element of trial depiction, the procedure of the trial itself. The central aim here is to consider how dramatic conventions emerge from and are integrated into trial procedure, which is relatively inflexible in terms of both its constitutive elements and their ordering.

This involves placing at the heart of the trial sequence the same tensions I located in the courtroom sequence's other representational strategies, between formality and spectacle, reason and emotion, and natural and positive law. All of these tensions embody a clash between what is fixed and what is unstable, and thus, when considering these terms as the foundational elements of cinematic trial representation, it is highly relevant to consider the intersection of trial procedure – an unalterable, known quantity with an embedded development – and what could be termed the “drama” of the courtroom drama. One caveat of the trial scenario is that

the degree of formality accorded to courtroom procedure means that the range of actions available within this space is limited. Formality and pressured stasis ultimately gives more dramatic weight to actions that carry less meaning in other diegetic spaces. Verbal outbursts, gestures, even looks, provide a greater source of drama. The lawyer's movements across the space of the stage take on a more dynamic quality. The limits imposed by the procedural development of the trial corresponds to a limited and conventionalised network of dramatic events (including breakdown and outburst) that simultaneously clash with and emerge from the procedural components. I will attempt to begin identifying them here.

Similarly, the procedural framework imposes a fixedness in terms of narrative progression that individual films can nevertheless play with. Our investment in and response to the sequence is structured by what we take to be the assumed development of trial procedure, which as Bruzzi notes, provides a narrative form particularly attuned to the imperatives of Hollywood's classical mode of narration. The trial proceeding embodies to a reassuring degree causality, linearity, and by its end, closure. However, the contained narrative of the courtroom functions within a larger narrative in each film that inflects the terms on which we engage with and respond to the trial material. In the instance of each golden age film we arrive at the courtroom with certain narrative information and certain structures of identification in place, so that the essential narrative concern underlying each sequence – what will the outcome of this trial be – is inflected by a broader network of concerns. In order both to consider in more detail the specific concerns of individual films and the convergence of representational patterns located throughout the chapter, I will employ textual analysis of moments considered in relation to specific films' formal strategies.

Preliminaries: Arrivals, Coming to Order.

The golden age films demonstrate that there is no standardized point during trial procedure at which the sequence begins. It could partly be due to the very standardization of depicting the courtroom trial in Hollywood cinema that this varies. The audience's familiarity with (Hollywood's dominant representation of) courtrooms and courtroom procedure, certainly established by the time the golden age trial films were produced, would have consolidated into a series of expectations that allow for a certain flexibility in choosing when we join the trial proceedings. There are also matters of choice based on each film's narrative structure and contexts. These choices bring a subtle but distinct nuance to the sequence's emphases, as do the extent to which the aspects of trial procedure are figured in the diegesis.

Thus, the depiction of the process of court coming to order is not strictly necessitated – scenes can begin on an opening statement (as in *Compulsion*) or witness testimony (as in *Philadelphians*) – but its inclusion within the diegesis often acts as a way of dramatizing the transition from the outside world, with its own less rigidly ordered systems of interaction, to the formal, ritualistic space of the courtroom. Various arrivals into the courtroom (of legal professionals, defendants, spectators) may be depicted at the start of the sequence, with the use of long shots surveying the courtroom alongside these arrivals. Tighter compositions on individuals and smaller groupings and patterns of editing (including eyeline matches) can re-establish the key figures involved, and relationships at stake, in the case on trial. Throughout this, diegetic noise from the spectators signals a lack of order until, as in *Mockingbird* and *Anatomy*, the arrival of the judge signifies the beginning of the trial proceeding. The crowd is quieted by the banging of a gavel

and the respectful ritual of standing for the judge occurs before we are informed that “court is in session”.

Choosing to depict court coming to order is one method of making the viewer aware that the courtroom material will be particularly important to the film’s overall narrative and that all of the conventional procedural elements of the trial will be depicted. The spectator now expects the scene’s development to be structured by the depiction of each of the prominent aspects of trial procedure. It signals what could be termed a courtroom sequence proper, as opposed to a more condensed representation of the trial that may only depict isolated procedural elements. I would also argue that it has another function similar to many of the aforementioned conventions of courtroom mise-en-scène, which is to act as a guarantor of realism. Thus *Anatomy of a Murder*, a film particularly interested in providing a realistic depiction of courtroom trial procedure,¹⁵⁰ depicts many of the initial ritual aspects of trial procedure, including the arrival of the judge, his formal introductory speech to the courtroom, the jury being sworn in, and even a brief preliminary case brought before the court that is separate from the criminal case that comprises the main narrative. However, it should be noted that the golden age sequences that open during a later element of trial procedure, including *Compulsion* and *Philadelphians*, still introduce the scenario through establishing long shots or camera pans that survey the courtroom, and will include later moments of ritual that are not strictly necessitated narratively (e.g. depicting the witness being sworn in on the stand). This ensures the presence of the fundamental structuring relationship

¹⁵⁰ See Papke, *From Flat to Round: Changing Portrayals of the Judge* (2007), pp. 132-134.

between these formalities and the dramatic events that invariably erupt over the course of the trial sequence.

Opening Statement(s)

The opening statement is another element of trial procedure that can be depicted as a way of navigating the transition from the outside world to the court's structures of address. One form of opening remarks are those made by the judge at the outset of the trial. This addresses both diegetic audience and the film's viewer in conveying the appropriate or expected modes of response. However, the opening statements that demand greater attention (from both viewer and critic) are those given by the lead prosecution and defence counsel. They signal a shift into the dramatic substance of the trial, establishing the opposed narratives that will compete over the course of the trial. They also provide an introduction to the lawyer characters in their professional guises, allowing for the exhibition of oratory (and hence skill).

It is worth reasserting that, as with the previous developments, the opening statements do not have to be included within the golden age trial sequence. Because their content and the representational strategies employed entail some overlap with the procedural element of the closing statement (to be discussed later in this section), certain golden age films exclude opening statements for the sake of the dramatic effect of the latter (*Mockingbird*). *Compulsion* negotiates this by depicting the opening statement of the prosecuting attorney and the closing statement of the defence (a choice which in itself, I would argue, guides viewer response). However, opening statements create certain possibilities that make their inclusion particularly relevant to individual films within the golden age corpus. For example, *Judgment at*

Nuremberg depicts the opening statements of both prosecution and defence counsel. This choice is rendered appropriate because the issues the trial raises are not reducible to a model of law in which guilt is determined through the discernment of concrete facts, but pivot around broader socio-cultural forces and ethical issues, specifically the individual accountability of legal officials under a totalitarian regime. Clover's notion of the double-trial is of significance here; when aspects of the legal and judicial systems are themselves on trial, opening statements can help set into motion the viewer's processes of judgment. Thus, *Judgment* depicts within the same scene two powerfully delivered opening statements that introduce the two opposed arguments, employing paralleled representational strategies that (with the exception of the star casting of Richard Widmark as the prosecution counsel) gives equal weight and attention to both parties and their arguments.¹⁵¹ The film's address at this point encourages the viewer to consider the points made and acknowledge the complexity of the issues at hand (although its eventual narrative development will guide us to accept the final verdict made as the correct one), and achieves this through the inclusion and specific handling of the opening statements.

On the Stand: Testimonies/Examinations and Cross Examinations

Papke argues that in cinematic trial depictions 'the greatest drama involves the prosecutor and defence counsel examining and cross-examining parties on the stand'.¹⁵² I imagine few critics would disagree, yet it is worth interrogating what we mean when we use the term 'drama' in this way. If we accept a dictionary

¹⁵¹ Maximillian Schell, the actor playing the defence attorney character, would have been familiar to American audiences who had seen his appearance in the earlier *Playhouse 90* television version of *Judgment at Nuremberg* (CBS, 1959), but this was only his second appearance in an American film and thus he was not a star on the level of Widmark at the time of the film's release.

¹⁵² Papke, 'Law, Cinema and Ideology', p. 1479.

definition of ‘dramatic’ as ‘sudden and exciting or unexpected’ then we can begin to understand why examinations create the most potential for dramatic events.¹⁵³

The fundamental tensions that I have argued are exhibited in the interaction of the law with the individual are most evident in the scenario of the examination, for several reasons. Firstly, it presents the most sustained, aggressive form of this interaction, often placing individuals who (as I noted in the previous section) exist well outside of the domain of judicial familiarity at the mercy of the court. It is also the area of procedure in which the trial’s adversarial nature is in its fullest effect, with its various forms visible: between the competing narratives presented to the jury, between prosecuting and defending lawyers, and between legal actors and the civilians placed often reluctantly before the court. The sudden and unexpected can be evidenced not only in the behaviour of the witness or lawyer during examination, but in the narrative trope of the surprise witness, present in *Philadelphians*, *Witness*, *Inherit* and *Anatomy*, which demonstrates the precariousness of the procedure’s formal stability and asserts the notion that any individual can be made subject to the courtroom and placed in the pressured environment of the witness stand.

Whether their appearance as a witness is a surprise within the diegesis or not, at the most basic level, the following set of elements dictates the action and structure of the witness examination. An individual takes to the stand as a witness for the defence or prosecution. Their account of events is drawn out by an examination from the lead counsel. The lawyer for the opposing party then attempts to challenge the witnesses’ narrative through a cross-examination that aims to

¹⁵³ Della Thompson (ed.), *The Pocket Oxford Dictionary of Current English* (8th edn: Oxford: Oxford University Press, 1996), p. 261.

complicate or challenge this narrative by asking a series of questions. This generalisation excludes a great deal of what makes these examinations often the most dramatically engaging section of a trial sequence. One can again consider the choices made available to the filmmakers in bringing this procedural convention to the screen. For example, one early choice to be made is whether the filmmakers depict the witness traversing the stage and being sworn in before they take to the stand. It is telling how often this is included in full in the golden age trial scenes despite its narrative extraneousness. Its inclusion functions to underline the tension between the formal, ritualistic structures of law and its (often failed) attempts to submit the individual to its rigid systems of participation (as well as augmenting the sense of courtroom realism).

I maintain that the ‘drama’ that Papke refers to in relation to witness testimonies emerges largely from the level of emotion rendered in these moments. The vulnerable type of witness I identified in the previous section, characterised through their closeness to the individuals and events at stake in the trial, are narratively positioned to undergo an emotionally gruelling experience on the stand. These are the moments during which, as Laster et al. state, the ‘polite rules governing the rituals of ordinary communication and the social mask which protects the private self are deliberately stripped from individuals during court proceedings’.¹⁵⁴ This process typically provides the greatest source of the ‘dramatic’ (as defined above) in the trial sequence, as it incurs emotional responses from the witness that are characterised as particularly sudden, unexpected and excessive within the schema of the trial ritual and procedure. The most prevalent trope related to emotion is the breakdown of, or outburst from, the individual on the

¹⁵⁴ Kathy Laster et al. *The Drama of the Courtroom* (Federation Press, 2000), p. 9.

stand, identifiable as such through actions that include weeping, shouting and gestures of extreme stress and discomfort. Other tropes circulate around the emotional responses witness testimonies invoke in others, the clearest example being the defendant's outburst in response to a witnesses' comment, present in *Anatomy, Witness* and *Judgment* (Figs 14-15). The breakdown and/or outburst is rendered particularly dramatic as it punctures the governing principles of communication underlying procedure which dictate that speech will be permitted by the court, thereby disrupting, even if momentarily, the development of the trial. At least one outburst or breakdown is featured in every golden age film with the exception of *Philadelphians* (which, as I will demonstrate shortly, deliberately leaves little room for focus on anyone other than the lawyer hero). The prevalence of this convention demonstrates that, despite the respectful approach to the trial evidenced overall in its treatment in Hollywood cinema, dramatic action is still liable to be created from the clash of the trial's formality and ritual with an individual viewpoint external to the legal procedure.



Fig. 14



Fig. 15

The centrality of emotional displays to courtroom drama also raises issues of identification here. Although the witnesses are not frequently major characters in the golden age films, the representational strategies commonly employed during examination brings the viewer in close alignment with their experience. The standard representation of these witness testimonies allow for audience identification regardless of the extent of our empathy for the characters elsewhere, due to the sustained focus and dramatization of a stressful situation in a highly pressurized environment and a dominant method of filming the scenario – through frontally framed medium or close-up shots, often accompanied by long takes – that provides a primary, sometimes sole, focus on the individual whose emotional vulnerability can provide a stark contrast with the courtroom’s other participants.¹⁵⁵

We can consider an example of highly dramatic courtroom testimony in *To Kill a Mockingbird* which demonstrates how drama is coerced through appeals to and portrayals of high emotion. The case on trial concerns plaintiff Mayella Ewell (Collin Wilcox) a young white woman who has accused African-American Tom

¹⁵⁵ The potential of such testimonial roles for dynamic performance is evident in the casting of *Judgment at Nuremberg*, in which major stars Judy Garland and Montgomery Clift take on relatively small but showy roles as witnesses in the Nuremberg trials. Both were Oscar-nominated for their performances.

Robinson (Brock Peters) of beating and raping her. Although we have been aware of the case in advance of the trial sequence, we know little about the actual crime or the individuals involved, as much of the preceding narrative has dealt instead with the lives of defence attorney Atticus Finch and his children. However, the film's themes of racial prejudice and social injustice in the American South of the 1930s, as well as the characterisation of Finch, construct our expectations regarding the terms of the film's double-trial structure and the likelihood of Tom's innocence.

The characterisation of Mayella figures her in terms of gender, class, and education (identifiable through her manner of speaking and her simple, unadorned costuming) as an outsider to the domain of the courtroom. The decision to depict Mayella being sworn in on the stand in its entirety allows us to see her hesitancy and nervousness, which is reinforced in Wilcox's halting delivery of her testimony. Already a sense of a rehearsed and distorted narrative is being conveyed (the thematic preoccupation with performance in trial depiction does not solely circulate around the lawyer character). During the cross-examination, the questioning by Atticus Finch raises an alternative narrative to the one Mayella has hesitantly presented on the stand, as Finch implies that Mayella was instead beaten by her father Bob. Wilcox's performance and reaction shots of the scowling Bob give the audience indications of the truth here. When Atticus asks Mayella if her father has ever beaten her, Wilcox leaves a significantly lengthy pause before answering "my Pa's never touched a hair on my head". Her mode of response thus suggests the likelihood that Bob *has* hit her before and that she *has* invited Tom to the house before. Her testimony has, for the audience, begun to crumble, and when she is asked once again by Finch whether Tom hit her during the attack, her response - "I don't recollect if he hit me" followed by a panicked "I mean yes! He hit me! He hit

me!”– is telling. Throughout this portion of testimony, the performances of Wilcox as Mayella and reaction shots of her father Bob already cue us in to the truth, with Wilcox’s gestures and body language conveying to us guilt, hesitancy and a sense of rehearsal to her early responses.

Mayella is asked by Atticus to identify her attacker. She points to Tom, and Atticus asks the defendant to stand. It has been established that Mayella’s attacker was left-handed, but when Atticus now throws Tom a glass across the stage, he grabs it with his right hand. When Atticus asks him to try again using his other hand, we realise Tom cannot use his left hand at all. This revelation produces an audible reaction from the spectators, signalling its dramatic status within the diegesis. Following this damning refutation of the narrative Mayella has thus far offered, Atticus now asks “Do you want to tell us what really happened?” It is here that the pivotal moment of breakdown occurs, accompanied by a slow zoom in on Mayella that conveys the encroaching pressure on her (Figs. 16-17). She looks downwards (Fig. 16), which typically conveys introspection during this moment of intense public pressure, before becoming visibly emotional, crying out “He took advantage of me!” Mayella then addresses herself to the jury, angrily accusing them of being “lousy, stinkin’ cowards” for even daring to consider Tom innocent (Fig. 18).



Fig. 16



Fig. 17



Fig. 18

What is interesting here is that although Mayella's breakdown does not bring her to a point where she admits the truth, it still works in much the same way as a moment where the excessive pressure of testifying before court leads to an outburst that unintentionally conveys the truth. Mayella is clearly lying, and must eventually appeal to the racial divisions of the community to ensure Tom is found guilty. But the character is not simply demonised. Wilcox's performance grants us a sense of her guilt and fear, as well as her inability to, as Laster might state, 'protect her private self'. Her lack of control is conveyed also through the insistent zoom-in on Mayella. Her testimony can be compared with that given later by the defendant Tom, which is more dignified but no less emotional, and also leads to a moment of breakdown which is accompanied by close-up framings of the individual on the stand. This method of depicting and structuring the key testimonials gives us an intense focus on the individual on the stand even when the courtroom sequence marks their only appearance within the narrative.

This is just one example of rendered emotion forming part of the drama of the courtroom scene. Such emotion constructs certain meanings, particularly in its distinction from the codes of conduct expected from the court of law. It is often employed in the golden age films to raise issues of ethics, questioning the extent to which the goals of justice override the emotional battery and manipulation inflicted upon witnesses during cross-examination. This moment from *Mockingbird* balances its depiction of intense pressure on the witness with its broader consideration of Atticus Finch's moral rightness. Films frequently depict the distortion or partiality of information gleaned from witness testimony through the lawyer's modes of questioning.¹⁵⁶ *Judgment* treats ambivalently the persistent aggression with which the emotionally vulnerable witnesses are treated on the stand by the zealous attorneys, even leading defendant Emil Janning (Burt Lancaster) to draw comparisons between the defendant's badgering of the witnesses with the horrors of Nazism.

Yet these ethical considerations can also be elided in golden age trial representation. Another mode of dramatic engagement can be constructed through a focus on the lawyer's skill display during examinations. This is especially true in relation to the legal heroes, whereby our identification with the protagonist grants a specific inflection to their courtroom appearances. The spectator is likely to be invested not only in the details of the case on trial and the emotional outpourings of the witnesses on the stand, but also in the skill and success of the legal protagonist.

¹⁵⁶ One typical example occurs in *Judgment at Nuremberg*, when a witness for the defence asked by the prosecuting attorney to describe conditions in Germany at time the Nazis came to power is then directly asked whether the Nazis improved some of these conditions. The witness replies "Yes, but-" before the rest of his statement is cut off by the lawyer. For the defence's case, only the "Yes" was needed; the remainder of the witnesses' statement (which evidently would entail a less favourable summation of the Nazi legacy) is irrelevant despite clearly containing his actual perspective.

Alongside the testimonies of Mayella and Tom, *Mockingbird* also engages viewer attention through the quietly impressive success of Atticus Finch's questioning, evident in the skill and relative dynamism with which the thrown glass essentially proves for the audience that Tom could not have beaten Mayella. The sense of competition is integral to conveying the skill of lawyer characters and underlines the adversarial mode of the trial. Interjections and objections by opposing counsel during witness examinations provide consistent blockades against progress that must be dealt with before continuing, and which often become more frequent and intense as the sequence progresses. The ability to create new or opposing narratives to the one presented during initial examination leads cross-examiners to lean heavily on language; undermining unacknowledged 'certainties' ("Can you say for certain that this happened?" "Is it not possible that-?") becomes the key convention here, pivotal to the structure and development of the examination and to conveying the 'shift from prosecution to defence' that Clover characterises as one of the fundamental conventions of trial narratives.¹⁵⁷¹⁵⁸ Examples in the golden age films include, in *Witness*, the defence counsel throwing into question the testimony of the murder victim's housekeeper (that she heard the defendant and murder victim talking in the next room on the night of the crime) by making the court aware of the witnesses' hearing impairment; the moment in *12 Angry Men* when Juror #8 produces a knife identical to the one that, found on the defendant, was used by the prosecution as evidence due to its uncommonness; and a key moment from *Philadelphians* which I will consider in more detail now.

¹⁵⁷ The narrative development of *12 Angry Men* relies almost entirely upon this convention.

¹⁵⁸ Carol Clover, 'God Bless Juries!', p. 270.

The Young Philadelphians provides a clear example of the golden age trial sequence that builds its drama around the lawyer protagonist and his success in the courtroom. An example of the first case lawyer film,¹⁵⁹ *Philadelphians* follows the inexperienced but eager young lawyer Tony Lawrence as he takes on his first criminal case defending old friend Chet Gwynn (Robert Vaughn) on a murder charge. The preceding narrative has followed Tony's rise from education to apprenticeship to entering the legal profession, his hard work and luck contrasted with the wealthy, initially carefree Chet, whose status plummets while Lawrence's rises. Chet has been charged with murdering Morton Sterns (Robert Douglas), a member of his wealthy family, following what appears to have been a failed blackmail attempt. The focus is very much on Tony as the court sequence begins. Myriad pressures face Tony in taking on the case and have escalated in the series of scenes leading up to the trial, beginning with his lack of courtroom experience. The desire of the patriarch Doctor Sterns (Frank Conroy) to avoid public scandal (evidently by sacrificing Chet if needs be), has led him to threaten Tony with social disgrace by revealing the long-hidden scandal of his own paternity if he does not bend to his will in court. Tony's relationship with Sterns' niece Joan (Barbara Rush) has also been affected when she questions his suitability for the role of defending attorney. Nevertheless Tony's decency and solidarity with Chet keeps him on the case. The highly emotional story of Chet's decline and the events surrounding the night of the crime (which we the audience have not seen) have been revealed in a pre-trial sequence between Tony and Chet which is written like a courtroom examination but crucially takes place before the trial in Chet's jail cell. Thus, the emotional breakdown of the defendant which we might expect to

¹⁵⁹ Another example is *Trial* (Dir: Mark Robson, 1955).

comprise the climactic moment of the trial depiction has already occurred by the time we reach the trial sequence, allowing for our primary identification to be refigured on to the lawyer figure and his courtroom performance. Crucially, there is little sense of the double-trial at work in *Philadelphians*, which appears to have no other agenda regarding interrogating the adversarial system. The court is largely a device through which our protagonist's goals will be achieved.

The centrepiece of *Philadelphian*'s trial sequence is Tony's cross-examination of a key witness, George Archibald (Richard Deacon), Sterns' butler. This is the first and only appearance of Archibald within the narrative. The characterisation and Deacon's performance correspond to a common type of an elitist, arrogant figure blindly following a belief in class divisions that fits with the film's emphasis on the divergence between class status and personal integrity. Thus, the empathic identification that can be encouraged towards the witness is refuted in this instance, and viewer identification remains with Tony. The first shot of the courtroom sequence (which opens on Archibald's cross-examination) shows Archibald's slightly elevated position in a framing that displays the triangular configuration of judge, lawyer and witness mentioned earlier (Fig. 19), imbuing him with a sense of his own elevated authority. This modification of assumed courtroom power relations also grants Archibald the appearance of a worthy opponent for Tony.

The cross-examination begins with Tony's facetiously posited recognition of Archibald's seeming infallibility as a witness for the prosecution, commending the butler for his "remarkable memory and incredible powers of observation" during the earlier testimony to which the audience have not been witness (depicting the examination would have deflected our attention away from Tony/Newman for

too long). Having established that Archibald became aware of Chet's presence in Sterns' house on the night of the crime due to his ability to detect the smell of the cheap rye he had been drinking, Tony asks if Archibald would mind "demonstrating" this "remarkable talent" to the jury.



Fig. 19

This question prompts a cut away from the triangular shot configuration to the first interjection from the prosecution, Louis Donetti (Paul Picerni). Donetti fits the dominant characterisation of the prosecuting attorney outlined in the previous section. He is a former law school classmate of Tony's who has appeared periodically throughout the preceding narrative and whom we are likewise primed to root against in favour of Tony/Newman during the trial sequence. Donetti objects to the question, arguing it is neither "material" nor "relevant" (These two terms reoccur, specifically between the opposed lawyer figures, across trial scenes). Lawrence counter-argues that Archibald's ability to detect types of liquor by its smell is the basis of the prosecution's argument and Donetti's follow-up objection that it is unfair to test Archibald's sense of smell in the courtroom environment is overruled by the judge. This becomes the first victory for Tony that we witness in

the courtroom. Objections and their rulings are pivotal to discerning successes in the courtroom battle between prosecution and defence.

The test on Archibald's "remarkable talent" begins as Tony unveils three carafes which he explains contain three different types of alcohol. The murmuring courtroom spectators and photo-snapping journalists in the background of the frame as Tony unveils the drinks situate this as a dramatic courtroom spectacle, and a sign of Tony's increasingly charismatic hold over the court. Archibald arrogantly describes the drinks as they are presented to him, until finally, a sip from what he assumes to be a cup of water, but which is actually the "cheap rye" he thought he detected on the night of the crime, reveals his fallibility. This leads to another objection from Donetti, and as the pair of opposing lawyers plead their cases before the judge, they raise their voices in argument. The subsequent series of shots that frame them together augments the feeling of a competition (Figs. 20-21). Donetti's objection is again overruled, cementing what is being presented as Tony's triumphant performance.



Figs. 20 (top) and 21
(bottom)

From this point on, having gained the upper hand and demonstrated his skill, Tony/Newman takes control of the remainder of this section of the sequence. When Tony proceeds with his questioning of Archibald, the earlier triangular configuration that privileged the witness is replaced with a tracking shot that moves alongside Tony, resituating him as the focal point. The subsequent reverse shot (Fig. 22) incorporates the jury into the frame, a reminder of the audience to whom his performance is addressed. Tony's command over the situation allows him to undermine Archibald's certainty to the point at which the latter must finally admit sheepishly that he does not know for sure that the sound he heard on the evening of the crime was the sound of Chet leaving the house. On this, there is a cut to a shot of journalists rushing out of the courtroom amidst the noise of spectators, both of which convey the dramatic breakthrough made in the case. Mrs. Allen (Billie Burke), a member of the Sterns dynasty then states excitedly "Is it possible the boy didn't do it?" before the fade to the verdict. Her stunned reaction serves as one final reminder of Tony's courtroom success – the apparent obviousness of Chet's guilt to even his own family has been undermined by Tony's skill as a lawyer.



Figs. 22 (top) and 23 (bottom)

The dramatic potential of this element of courtroom procedure thus makes available any number of strategies for viewer engagement. The inherent adversarial nature of the courtroom trial is most evidenced in the cross-examinations of the golden age trial scenes, as are the possibilities for renderings of explicit emotion that take on a greater dramatic resonance in the light of the bounded, ritualistic systems of ordering at work in the court. Meanings are constructed through our modes of identification that can lead us to pity the legal outsider or revel in the triumph of the legal hero.

Out of Order: Recesses, Adjournments.

The courtroom recess is an often overlooked aspect of trial procedure, but is common to representations and often pivotal to the structuring of the drama. The recess can be simply referred to, providing an ellipsis without taking us out of the courtroom (as in *Philadelphians* and *Mockingbird*). It can also be depicted, presenting a short scene of characters invariably talking about the trial's

developments outside of the space of the courtroom. In both instances, the recess acts as a brief respite for characters and audience, reasserting what is on stake in the trial, and what certain developments might mean for its progression. Including a recess helps to structure the drama of the courtroom so that a series of dramatic escalations are depicted, rather than a simpler escalation of tension over the course of the sequence. It can also emphasise the inherent theatricality of the courtroom proceeding, depicting the backstage mechanics that construct what the jurors see in the courtroom and capturing any differences in behaviour or performance from the trial participants. This is central to the thematic content of *Inherit*, *Judgment* and *Anatomy*. Recesses and adjournments also allow the films to deal with the issue of time. For the sake of plausibility, a sense must be conveyed that the trial depicted occurs over a significant period of time, and the inclusion of recesses and adjournments serves to remind the spectator that these trials are often prolonged affairs.

If we expand the definition of recess beyond its specific meaning within the trial scenario to include any scene that takes place outside of the courtroom once trial has begun, then a greater number of possibilities and meanings emerge. The homogenisation of the golden age classification is again complicated when the films' positioning of their trial material in relation to broader narrative and thematic concerns is considered. On one end of the spectrum, *Mockingbird* and *Philadelphians* present their trial material in one continuous sequence in which recesses, adjournments and other passages of time are referenced but elided through ellipses. *Witness*, *Inherit*, *Anatomy* and *Judgment*, however, establish a relational development that juxtapose scenes set in the courtroom (spanning what can be days, weeks or months of the film's world) with scenes set outside of it. These

differences of narrative structure create different possibilities for meaning construction. I would argue that the continuous depiction of *Mockingbird* aids the film's affirmation of courts as "the great levellers", as it entails less engagement with the ethical and performative complexities posited in scenes that go backstage once trial is underway. The law emerges intact, presented in a form that gestures more towards the natural rather than the positive model. *Anatomy*, in contrast, uses its out-of-court scenes to reassert its themes of the centrality of image, appearance and performance to the trial (and the moral and ethical murkiness this entails) by showing the behaviour underlying what is viewed by the courtroom. *Inherit* and *Judgment* occupy a middle-ground, demonstrating the outside influences that can influence the rulings made in court, but finally deferring to the innate integrity of the justice figure played by Spencer Tracy and the unimpeachable fairness of the court's decisions. The juxtaposition of trial material with other sequences as a constituent feature of narrative structure is the main difference between many of the golden age trial scenes and my later case studies which (with a few exceptions), restrict the entirety of their diegetic trial material to one continuous sequence with ellipses employed to convey passages of time. The major issue to be garnered from discussions of the recess is to remind ourselves that the trial sequence (like any shot, scene or sequence to be analysed in film) must be considered in relation to the formal and narrational patterns established elsewhere in the film if its meanings are to be discerned.

Closing Statement(s)

Before considering the closing statement convention specifically I would like to return to the notion of the speech in the courtroom more generally, considering what possibilities the inclusion of speeches provides the courtroom

sequence in terms of drama and meaning. Several of the golden age trial sequences contain climactic speeches made before the courtroom by legal professionals. These speeches again signify and demonstrate the skill of the legal protagonist, and substitute the visual and dramatic restrictions of the courtroom for a command of oratory that is one of the site's specificities. Laster et al. state that:

the kind of oratory found in the opening and closing speeches of the film courtroom hark back to earlier rhetorical traditions of public discourse [...] This kind of display would appear affected and inappropriate in most settings. In film, however, these old fashioned modes of persuasion and argument are accepted, even admired. The poetry of some courtroom films might be dubious, but it is gripping.¹⁶⁰

Laster et al. are here attuned to the specificities of the courtroom setting, situating the trial as one of the few scenarios where this 'kind of oratory' can occur in Hollywood cinema. I noted in my discussion of the opening statement that such oratory seemed particularly relevant to films that employed the double-trial structure. The correlation between the courtroom form and socially conscious Hollywood cinema (to be explored in more detail in the next chapter) partly emerges from a shared predisposition towards presenting issues through speechmaking. Characters make an address that directly articulates what these social issues are and posits solutions to them that are often rooted in the ideals of mid-century American liberalism. Trial sequences allow for this convention because the diegetic scenario and procedural development provide a space in which sustained attention is granted to an individual character who makes an address to diegetic audiences and the film spectator. Throughout the questioning portion of the trial, the lawyer is liable to be constantly halted by interjections and objections (as

¹⁶⁰ Laster et al., *The Drama of the Courtroom*, p. 10.

we have seen) but the prolonged speech allows a professional, authoritative figure to deliver a message without interruption. Hence this moment of courtroom depiction often allows for a social message to be conveyed through the film, in a convention that has seen the courtroom film frequently allied with the social problem film.¹⁶¹

The closing statement is particularly useful in this regard for acting as a more emphatic final word from both the character and film; the justice figure's rhetoric is also the film's rhetoric. I will now consider the two most significant dramatisations of the defender's closing statement in court, those contained in *Compulsion* and *To Kill a Mockingbird*. Both films use the closing statement to present issues regarding society and the legal system and act as the centrepiece of the respective courtroom sequences. Atticus Finch's closing plea to the jury in *Mockingbird* moves from the evidential details of the case at the outset of the speech – reminding the jury of the left-handedness of Mayella's attacker, for example – before making broader assertions regarding the unspoken codes of their society regarding race. He continues to refer to courts as the 'great levellers' of society, where all men are equal. Throughout this speech, the camera remains largely on Finch/Peck in a series of long takes (Fig. 24), broken up only by a scattering of reaction shots of African-American characters that serve to underline the theme of racial injustice. The courtroom sequence of *Compulsion* ends with a speech made by defence attorney Jonathan Wilk (Orson Welles) that has been considered 'one of the longest by a single character in the American cinema' and

¹⁶¹ See the chapter 'Social Problem Film and Courtroom Drama' in Casper, Drew *Hollywood Film 1963-1976*.

was even released as a record.¹⁶² The character of Wilk has commanded the film in its final act, due not only to the casting of Welles, but also so that the character can act as the film's primary mouthpiece for legal liberalism. *Compulsion* is a film in which we know that the two defendants are indeed guilty of – and almost entirely remorseless about – the crime they are on trial for. Thus Wilk's (and Welles') function is to convince both judge and spectator that capital punishment is not the appropriate penalty. Both of these pivotal closing statements are filmed in an unobtrusive manner, employing mostly long takes. This choice privileges the star performer and the speeches themselves, which ultimately valorise the American legal system and its workings. The dignified yet forceful speeches work to convince audiences of the value of the institution of law and the adversarial trial system more than any other element of trial procedure and also appear to address the audience to a greater degree. They also function as the most explicit rendering of the necessity of emotion to the justice genres as noted by Pribram. The impassioned appeals of the justice figure reside in an ideal midpoint between the excessive emotion of the vulnerable witness and the flatly-defined reason of the judge.



Fig. 24

¹⁶² Hakopian, Kevin, 'Film Notes – *Compulsion*', *New York State Writers' Institute*, <http://www.albany.edu/writers-inst/webpages4/filmnotes/fnf00n2.html>, accessed 05 November 2013.



Fig. 25

Verdict and Coda

The verdict provides a cathartic sense of narrative closure even when the outcome is not the one the audience and its identification figures have hoped for and correspondingly, it appears in all of the golden age representations. Once again, the procedural elements are known and limited, allowing little in the way of variation. In the most common treatment, the verdict is read out by the jury foreman. When there is no jury (as in *Judgment*), the verdict will be given by the presiding judge, and in both instances, the latter's subsequent sentencing can also be included into the sequence. In its representational strategies, the golden age trial scene marks a return to the pared down arena of formality. The atmosphere evoked is tense but not explosive, and there is less rendered emotion than during the examinations or speeches. Emotion is primarily conveyed through reaction shots of the key participants. However, the response following the verdict is crucial to the tone of the sequence; the immediate outburst of jubilation or anger from the spectatorship can reflect or contrast with the reactions of the characters we identify with the most.

The trial sequence can end on the verdict, as in *Anatomy of a Murder*, but several golden age films remain in the courtroom to present the initial individual responses to the trial's outcome and sometimes reveal the true intentions of the

sequence. Many of the golden age films end in or around the courtroom (*Witness*, *Compulsion*, *12 Angry Men*, *Inherit*, *Philadelphians*) and in each instance this serves to bind narrative closure with the reification of the law. Often these courtroom codas solidify the film's ideological imperatives and affirmations of American law and justice. The trial form 'embodies closure' as Bruzzi notes, but it is often the moments that follow the end of the procedure that consolidate the trial scene's meanings. Rosenberg notes how the final images of *Philadelphians*, capturing the reconciliation of Tony and Joan within the now emptied courtroom, suggests 'the power of legal trials to resolve both public and private difficulties'.¹⁶³ By remaining in the courtroom and providing closure on these major relationships, such post-verdict codas remind us of the stakes of the trial whilst also bringing us out of the world of formality and ritual and back to the level of everyday relationships and human triumphs and disappointments. Perhaps the most iconic moment of *Mockingbird*'s courtroom sequence, one that valorises Atticus Finch for his attempt to defend Tom Robinson against a racist environment, occurs after the reading of the 'guilty' verdict, when the African-American spectators who have viewed the trial from the upper balcony of the court stand for Finch as he walks past. *Witness* saves its final revelations until the trial has finished, essentially revealing the entirety of the trial to have been a performance manipulated by Leonard and Christine Vole (Marlene Dietrich), but also figuring the empty courtroom as the stage for ensuing developments to finally ensure that justice is served. The wide variance of narrative developments evidenced in the courtroom codas demonstrate the importance of looking at individual films in detail, but it is telling that the end of the trial sequences in the golden age films (with an exception,

¹⁶³ Norman Rosenberg, 'Hollywood on Trials', p. 346.

as ever, identifiable in the ambivalence of *Anatomy of a Murder*) locates in the court system the possibility of justice regardless of the final verdict.

2. The Great Levellers?: Social Issues on Trial and the Social Problem Film

Courtroom Sequence

I have surveyed the dominant conventions informing the classical Hollywood courtroom trial sequence and have begun to suggest the prevalent tone with which the trial as setting and symbol is depicted. I detected a broadly respectful depiction of the American court system that held in tension a rigidly ordered, formal institution and procedure (reflected not only in the visual presentation of the courtroom space, but also in the treatment of figures such as the judge and jury) and the dramatic engagement with individuals whose stories – often those presented, contested, and evaluated in the courtroom - we are invested in. The golden age trial films I examined together affirmed the possibility of justice within the court system, despite the obstacles necessitated in the interests of drama, often through the presence of a central justice figure who spoke to and in most instances achieved (the film's conception of) justice. The courts were ultimately figured, to quote justice figure *par excellence* Atticus Finch, as “the great levellers” of society.

I now intend to consider the social problem film, which I believe cleaves relatively closely to this dominant “great levellers” model. I would like to consider why the courtroom trial and the social problem film forms appear particularly suited to each other, and how social problem films use the “great levellers” with regards to their treatment of the specific social problem depicted. However, I will also examine, through close analyses of specific sequences, the specificities of individual depictions, the multiplicity of strategies employed, and the multiple, often contradictory meanings conveyed.

The close association between the social problem genre and the courtroom drama has been noted,¹⁶⁴ and occasionally examined,¹⁶⁵ but not in relation to the classical Hollywood cinema. This is especially surprising when one considers the frequency with which contemporary social issues are incorporated into the golden age trial film narratives; of the nine films Papke discusses in 'Law, Cinema and Ideology', I would maintain that several foreground social issues through their courtroom sequences that are contemporaneous to each film's production (regardless of whether the films employ period settings, as for example, *Compulsion* and *To Kill a Mockingbird* do).¹⁶⁶ Clover's concept of the double-trial structure suggests the fit between the trial form and the depiction of topical social issues. The failure sufficiently to consider the close relation between the social problem film and the courtroom drama may result from the relative scarcity of literature on the social problem genre, and the various debates surrounding the social problem film's status and defining features. Therefore, I will engage with the literature on the social problem film, considering these key definitions and debates, and begin identifying the possible ways in which one can conceive of a social problem courtroom sequence.

The 'Social Problem' Problem

The body of literature on the social problem film is relatively small and narrow in its approach. I largely limit my discussion to four studies which I think

¹⁶⁴ Drew Casper's book *Hollywood Film 1963-1976: Years of Revolution and Reaction* (Oxford: Wiley-Blackwell, 2011), groups the two in a chapter titled 'Social Problem Film and Courtroom Drama'.

¹⁶⁵ Matthias Kuzina, 'The Social Issue Courtroom Drama as an Expression of American Popular Culture' *Journal of Law and Society* 28:1 (March 2001), pp. 79-96.

¹⁶⁶ I raise this point because it is central to the definitions of the social problem film that I discuss in detail in the following section.

are both representative of the field and offer individual insights that can be applied to my own consideration of the social problem film. The earliest book-length study of the social problem film is Peter Roffman and Jim Purdy's *The Hollywood Social Problem Film* (1981). The authors look at films of the classical period, considering various phases and incarnations of the social problem genre from the 1930s through to the 1950s. It should be immediately noted that, unlike many other writers on the social problem film, Roffman and Purdy *do* consider their corpus to constitute a genre (albeit one with much generic overlap). They argue that 'the central dramatic conflict' of this genre 'revolves around the interaction of the individual with social institutions',¹⁶⁷ and that the problem film must '[combine] social analysis and dramatic conflict within a coherent narrative structure'. They take the genre's 'most distinguishing feature' to be its 'didacticism'.¹⁶⁸

This definition has been viewed as problematically broad, and Roffman and Purdy's work has been criticised for the vagueness of the related terminology they employ, including 'social issues' and 'social content' (see Maland, 1988; Pells 1981). It is true that the aforementioned interaction they take to be the focus of the 'genre' could be identified in a far greater number of films than those they include; in fact, the case could be made that this interaction is a tenet of the majority (if not all) of American film narratives. The impreciseness of its application as a defining feature here plays into the conflicting notion that the 'promulgation' of contemporary social issues 'in films of all kinds in the 1930s and 1940s complicates the idea of a totally separate social problem genre' (Neale, 2000).¹⁶⁹ I

¹⁶⁷ Peter Roffman and Jim Purdy, *The Hollywood Social Problem Film: madness, despair and politics from the Depression to the fifties* (Bloomington, In: Indiana University Press, 1981), p. viii.

¹⁶⁸ *Ibid.*

¹⁶⁹ Steve Neale, *Genre and Hollywood* (London ; New York : Routledge, 2000), p. 109.

think it is worth unpacking the very notion of defining genre before continuing, as the majority of the scholars who weigh in on the generic status of the social problem film assume a straightforwardness to the term genre that I believe only muddies our understanding further.

Stanley Cavell considers issues of defining genre, arguing that recourse to a genre's 'features' during the process of generic identification is less useful than thinking of 'the common inheritance of the members of a genre as a story'.¹⁷⁰ He suggests replacing the terms used when discussing genre, typically as if referring to an object's features (or 'properties'), with 'an idea of the clauses or provisions of a story'.¹⁷¹ For Cavell, this leads the critic to begin thinking of individual members of a genre in terms of its interpretation of this story, moving away from a model of classification that rigidly adheres to identifying a fixed number of features (a model which, Cavell convincingly argues, would logically result in an indistinguishable set of films). This model has a number of interrelated implications, two of which are, firstly, the production of 'adjacent genres' that emerge in the changing of the story's provisions,¹⁷² and secondly, the role such changes have in determining a film's broader mode.¹⁷³

This model allows us a way of thinking about genre which does not focus on visual style (an often presumed pre-requisite that expels the social problem film from genre status) but which remains specific enough to distinguish the social

¹⁷⁰ Stanley Cavell, *Pursuits of Happiness: The Hollywood Comedy of Remarriage* (Cambridge, Mass.; London, England: Harvard University Press, 1981), p. 31.

¹⁷¹ *Ibid*, p. 32.

¹⁷² *Ibid*, p. 31.

¹⁷³ The example Cavell gives here pertains to *Random Harvest* (Dir: Mervyn LeRoy, 1942). Cavell argues that this film shares the same basic story as the comedies of remarriage that are his primary area of study. But by changing one of the later provisions of this basic story, *Random Harvest* emerges as a member of an adjacent genre, that, in the change it makes, also adopts a primarily dramatic register.

problem film from the overwhelming number of films that incorporate social issues into their narrative. I do not intend to treat Cavell's case as an inarguable one, but I think it allows us possibilities of countering the vagueness of Roffman and Purdy's definition, and of thinking of the subsequent critics productively in terms of their identification of their accounts of the social problem film's story. It should be noted here that I would maintain that the provisions of the story serve to ground its telling in the dramatic mode.

Considering Roffman and Purdy's initial configuration of the social problem film alongside Cavell's model of genre poses specific parallels between the social problem film and the courtroom trial form (itself a problematically situated genre) that helps us to understand better the fit between the two. The trial, like the social problem film, revolves around the interaction between the individual and the larger social institution (in this instance, the court). It permits a 'coherent narrative structure' through its format, 'social analysis' through narrative contextualisation and, crucially, 'didacticism' through its conventions.¹⁷⁴

The trial sequence dramatises the presentation and evaluation of multiple perspectives on actions and events that can easily be made to reflect broader social conflicts, and also allows for the direct verbalisation of a film's didactic message via one of several courtroom figures (judge, lawyer, or even witness), as demonstrated in the closing statements of *Compulsion* and *To Kill a Mockingbird*.¹⁷⁵ The shared seriousness of the golden age trial films – with the tone

¹⁷⁴ For example, Chris Cagle links the didacticism exhibited in *Knock on Any Door* (Dir: Nicholas Ray, 1949), a social problem film that deals with juvenile delinquency, to the film's courtroom scenes, arguing that the defence attorney's final statement allows for the inclusion of the film's message regarding the environmental determinants of crime. See Chris Cagle, 'Knock on Any Door: Realist Form and Popularized Social Science' in Rybin and Schiebel (eds.), *Lonely Places, Dangerous Ground: Nicholas Ray in American Cinema* (New York: SUNY Press, 2014), p. 43.

¹⁷⁵ See Chapter One, pp. 111-114.

dictated by the respect accorded to the court and the gravity of the cases on trial – corresponds to the dramatic register of the social problem film, which implies a serious engagement with the problem that constitutes its subject matter.¹⁷⁶

Another manner in which the social problem film does not seem to fit with conventional classifications of genre is that much of the critical attention is concerned primarily with its ideology rather than its formal ‘features’. A crucial aspect of Roffman and Purdy’s methodology involves analysing the ideological underpinnings of the genre, and this has remained the dominant critical approach to the social problem film. Despite a conclusion in which they attempt to mount a defence of the social problem picture, Roffman and Purdy are largely critical of the social problem film’s schema. This is evident from the outset of their study, in which they argue that:

While the genre places great importance on the surface mechanisms of society, there is only an indirect concern with broader social values (those of the family, sexuality, religion, etc.), the values that function behind the mechanisms. As such, the genre often seemed glib in its social analysis, viewing America as a series of social agencies that from time to time experience “problems” which must be corrected. For the most part, the films attack such problems in order to inspire limited social change or reinforce the status quo.¹⁷⁷

An earlier study by Russell Campbell is similarly critical of the social problem’s glibness. Campbell presents a more rigorous examination of what he terms the social consciousness film by considering three 1940s films produced by Darryl F. Zanuck: *The Grapes of Wrath* (Dir: John Ford, 1940), *Gentleman’s Agreement* (Dir: Elia Kazan, 1947) and *Pinky*. Campbell applies the broad ideological

¹⁷⁶ I would also use Cavell’s reasoning to argue that, despite the manner in which the trial scenario has a built-in engagement with social issues, this does not mean that all trial scenes are social problem trial scenes.

¹⁷⁷ Ibid.

manoeuvrings he detects in these three films to the wider schema of the social consciousness film.

Campbell's conception of the social consciousness film views it as 'part of the liberal branch of bourgeois ideology', despite a recurrent 'conservative inflection' he detects that 'evokes an attitude of condescension towards the poor and underprivileged'.¹⁷⁸ This raises a further parallel between the socially conscious film narrative and the golden age trial films, which, as I outlined in the previous chapter, simultaneously endorse an idealised legal liberalism while locating it solely in the mouth(piece)s of educated white males. It should also be noted that the films are typically addressed to a liberal audience who are already presumed to be "enlightened" with regards to the problem subject matter (a factor I will return to in my discussion of *Pinky*). Campbell maintains that ultimately, 'the liberal purpose of focusing attention on a social problem in order to provoke corrective action remains uppermost',¹⁷⁹ arguing that this emphasis on corrective action ultimately affirms dominant ('bourgeois') ideology and upholds the status quo:

By raising the possibility of such corrective action, the SC movie, while portraying negative aspects of American society, paradoxically celebrates the system for being flexible and susceptible to amelioration. In a similar way, social critics in literature or journalism are lauded for proving that in the United States free speech prevails.¹⁸⁰

Campbell recognises the recurrent depiction in the social problem film of flexible systems that are capable of correcting what are viewed as regressive societal elements, and he also links U.S. bourgeois ideology to the notion of free speech.

¹⁷⁸ Russell Campbell, 'The ideology of the social consciousness movie: Three films of Darryl F. Zanuck.' *Quarterly Review of Film & Video* 3.1 (1978), p. 60.

¹⁷⁹ Ibid.

¹⁸⁰ Ibid.

The consequences for the depiction of the courtroom trial within this configuration of the social problem film are twofold. Firstly, the court, as symbol and mechanism of the American legal institution, represents the system that Campbell argues the SC movie ultimately celebrates. Thus, we could hypothesise that the social problem court will be, even when initially problematized, ultimately celebrated within its narratives. The analogous paradox Campbell then provides is also telling, in that the notion of free speech he raises is central to the U.S mid-20th Century liberalism and the model of trial depiction I will outline in this chapter. The court, I argue, becomes the site in which social injustices can be firstly articulated and then rectified, affirming the courtroom as “great leveller”. Campbell proceeds to argue that the three Zanuck films ‘depict social problems as aberrations within a fundamentally sound system’ (paralleling the argument of Roffman and Purdy) and present solutions that ‘may be entertained without contemplating any decisive shift in existing power relationships’.¹⁸¹ It can easily be suggested, then, that the courtroom trial can be incorporated into the narrative to act as the indicator of the ‘fundamentally sound system’ of American society, and that the trial form’s predisposal to provide solutions (or, at the very least, resolution) allows for the problems raised to be recuperated through the depiction of a legal system working in the interests of justice.

Charles Maland (1988) similarly pivots his conceptualisation of the social problem film around the narratives’ shared recuperation and rehabilitation of the problem depicted; he notes that ‘implicit in the very notion of the term *social problem* is the belief that something can be done about it – that the problem has a

¹⁸¹ Ibid.

solution'.¹⁸² This problem-(re)solution assumption corresponds to Maland's assertion that the pre-1970 social problem films he considers mostly conform to the tenets of the classical Hollywood narrative as originally conceptualised by Bordwell et al. (1985). They provide narrative closure that makes the provision of some kind of solution to the problem presented inevitable. Although Maland does not classify the social problem film as a genre, his 'working definition' provides a neat summary of the grouping's shared qualities. This definition consists of four central features:

- 1) The social problem (implicitly singular) as a central narrative concern
- 2) The implication that the problem presented 'can be treated or even eliminated through well-intentioned liberal social reform'.¹⁸³
- 3) A contemporary setting to the narrative that identifies the social problem as a current one.
- 4) A 'humane concern for the victim(s) of or crusader(s) against the social problem'.¹⁸⁴

The first two features overlap with the outlines provided by Campbell and Roffman and Purdy. Here I wish to draw attention only to the fact that, as all of these critics note, the films themselves explicitly draw attention to only one social problem, and, as Roffman and Purdy note, only 'indirectly' concern themselves with problems relating to 'broader social values'. For example, the predicaments of the titular *Pinky* explicitly revolve around race, and although interlocking concerns – or problems - of gender and class also circulate throughout the film's narrative, it is

¹⁸² Charles Maland, 'The Social Problem Film.' in: *Handbook of American film genres* Ed: Wes D. Gehrig (New York: Greenwood Press, 1988), p. 306.

¹⁸³ Ibid, p. 307.

¹⁸⁴ Ibid.

the race problem, exemplified in Pinky's acceptance of her black identity, that is most directly addressed and most emphatically (if glibly) resolved by the film's end.

Maland's remaining two features warrant further interrogation. The contemporary setting is an interesting caveat, as it expels from inclusion any number of period films dealing with social issues that are nevertheless relevant to contemporaneous concerns.¹⁸⁵ Maland's consideration of the 'victim(s) of or crusader(s) against' the social problem also correlates to the character types inherent to courtroom narratives. My initial chapter looked at the distributions of focus and point of view between legal insiders and outsiders, noting that the golden age trial films were often primarily - and straightforwardly - aligned with the heroic justice figure (or, to employ Maland's term, 'the crusader against' injustice) but that their agency was juxtaposed with the more victimised and passive individuals on the stand. I think this feature of Maland's definition bears consideration alongside Campbell's detection of 'an attitude of condescension towards the poor and underprivileged' in the social problem film that I wish to examine by considering the distribution of speech and authority in my case studies. The implications of the 'humane concern' engendered by the social problem film go unmentioned by Maland, but the term invokes notions of emotional identification, specifically empathy for the individual (be they crusader or victim) at the heart of the narrative, that threaten to displace the broader social and political concerns. Stephen Neale employs a similar argument but disputes Maland's suggestion that the genre solves

¹⁸⁵ For example, I would argue that the golden age trial films *To Kill a Mockingbird* and *Compulsion* both address their messages regarding (respectively) racial prejudice and capital punishment to the liberal audience of the late 1950s/early 1960s regardless of their period settings. However, this location of contemporaneous issues in the past also acts as a safeguard against controversy to some extent, an issue I wish to return to in my discussion of *Dust Be My Destiny*.

its problems (at least, not in terms of the social), noting that social problem films ‘tend as a rule to insist that the problems they deal with are not resolved, and [...] often replace the possible resolution of social problems with the actual resolution of personal ones’.¹⁸⁶ Such debates serves as reminder that it is imperative when dealing with these films to consider what kinds of solutions are provided and the scale at which they are pitched.

These issues are engaged with more rigorously by a recent contribution to the literature on the social problem film. Cindy Patton considers ‘the emergence and depoliticization of the “problem film,” circa 1947-1959’ with regards to a number of interrelated contexts.¹⁸⁷ One of these, and one which constitutes a novel approach to the social problem film, is the influence of the Method style of acting. Patton argues that the publicising of the Method actor’s strategies ‘politicized the psychology of the Method, reinforcing the idea that basic human experiences – including “being oppressed” – could be universally sensed’.¹⁸⁸ The Method style also

converges with the rise of a very American conceptualization of personal and social identity. This milquetoast humanism promotes tolerance, but understands tolerance to be the property of white, Christian males who use it to re-establish their position as the Universal from which are distinguished the particulars who need to be tolerated (Blacks, Jews, eventually women, other ethnic groups, the aged and disabled, and, arguably, gays and lesbians).¹⁸⁹

I will return to the issues Patton raises here shortly, but firstly wish to consider her definition of the problem film. Patton considers previous conceptualisations of the

¹⁸⁶ Neale, *Genre and Hollywood*, p. 108.

¹⁸⁷ Patton, Cindy. *Cinematic Identity: Anatomy of a Problem Film* (London; Minneapolis: University of Minnesota Press, 2007), p. 3.

¹⁸⁸ *Ibid.*, p. 15.

¹⁸⁹ *Ibid.*, p. 3.

social problem film to have identified ‘a quasi-genre whose distinguishing commonality is thematic rather than formal’ but argues that the commonalities identified ‘binds the works into a mutually referential block, a genre defined by its ambition to enlighten post-World War II Americans and to modernize their attitudes toward “social” issues’.¹⁹⁰ She then argues that this previous work has overlooked the genre’s

self-conscious attention to the psychological structuring of prejudice and bigotry and their presumption that forms of oppression are, if harder and easier to cope with, substantively interchangeable. There is an uncomfortable and unspoken premise that an individual’s pathological prejudice looms larger than the systems and structures that maintain white middle-class-ness against variegated difference.¹⁹¹

Patton’s work overlaps with previous work on the social problem film, drawing attention to the genre’s shifting of the political on to the personal, and the avoidance of any overt critique of America’s broader structures. But she considers to a greater degree the role of emotional identification in the social problem film and the meanings entailed. Patton considers the genre’s primary strategy to be the production of ‘emotional miscegenation’, which the films encourage in order to construct the new empathic American citizen (and which, to consider her argument with Maland’s conceptualisation in mind, becomes the solution posed by the problem films).¹⁹² Emotional miscegenation is partly enabled by the aforementioned politicising of Method performance and, crucially, the uses of melodrama.

¹⁹⁰ Ibid., pp. 31-32.

¹⁹¹ Ibid., p. 32.

¹⁹² Ibid., p. 39.

Patton determines that ‘the most important of the problem films – *Gentlemen’s Agreement* and *Pinky* – are melodramas whose audience was predominantly female at a historic apex of female consumerism, at the moment when consumption began most decisively to mark social identity, and at a time when U.S. governmentality defined *social* problems as domestic – even feminine – and *political* – problems as public and masculine’.¹⁹³ These two films and their respective source materials, fuel much of Patton’s discussion, particularly *Pinky*. By bringing melodrama into her consideration of the social problem film’s strategies, Patton demonstrates a productive engagement with the interaction of genres and modes. Although she does not define her own understanding of the term, Patton appears to consider melodrama primarily in terms of its focus on rendering and producing emotion, which she ties to the social film’s project of emotional miscegenation:

The production of the problem through melodrama is significant [...] because it suggests that learning about the new social problems would occur less through direct experience or political debate than through acquisition of the proper emotions and structures of identification.¹⁹⁴

The key term here is ‘proper’; Patton argues that *Gentlemen’s Agreement* specifically regulates the amount of emotion required in attaining the new citizen status, concluding that ‘the new citizen turns out to be a Christian, white, heterosexual male’.¹⁹⁵ Although Patton shares with previous critics a fundamental understanding that the problem film addresses itself to the liberal element of the bourgeois status quo, she goes further in locating the ‘new citizen’ as this specific figure. This is relevant to reconsidering the liberal justice figure and how social

¹⁹³ Ibid., p. 6.

¹⁹⁴ Ibid., p. 36.

¹⁹⁵ Ibid., p. 42.

consciousness is exhibited in several of the golden age trial films. It allows us to view the ‘Christian, white, heterosexual male’ who speaks to liberal humanistic enlightenment in such films as *To Kill a Mockingbird* and *12 Angry Men* in relation to the more “problematic” citizens who they, in doing so, effectively – and, in the case of the latter, literally - silence. Again, the cinematic courtroom can be viewed as negotiating a set of interrelated tensions – between emotion and reason, the social(/domestic) and political(/public), the feminine and the masculine – but, in doing so, ultimately favouring the ‘new citizen’ as outlined by Patton.



Fig. 26



Fig. 27



Fig. 28



Fig. 29

Patton also gestures towards the ideological manoeuvres underlining what we could see as the liberal legalist underpinnings of the problem films' rhetoric, arguing for example that hiding 'America within the concept of freedom enables the production of a national identity that simultaneously transcends nation to speak of humanity and does so in the context of a community of nations, not world communism'.¹⁹⁶ I think this specific example is applicable to the discourse of both the golden age trial films and the social problem genre and will locate it in my case studies. Despite Patton's argument that the social problem genre emerged as a post-war phenomenon, I think aspects of her argument can be applied to what others have viewed as earlier examples of the genre, and I will consider my 1930s case study *Dust Be My Destiny* in relation to her concepts of the 'new citizen' and the centrality of emotional identification to the social problem film.

It is worth summarising what has been discerned from the body of work on the social problem film, both in relation to the problem film's critical status and its relationship to the mode of trial representation outlined in my previous chapter. Firstly, I think it is important to note that the work I have considered displays a broadly similar attitude towards the social problem film that views its object of

¹⁹⁶ Ibid., p. 43.

study negatively. The recurrent view of the social problem film as glib, shallow, naïve and committed to affirming the status quo can be contrasted with the field of film noir criticism (to be considered in my detail in my final chapter), which consistently associates its topic with achievement, aesthetic and narrative innovation, and ideological subversion. I think we can link these same attitudes to those commonly invoked in relation to courtroom narratives – that they are stagy, theatrical, too talky, visually inert, etc. Both the trial drama and the social problem film are considered forms that tell rather than show, often considered an indication of a film's artistic failure.¹⁹⁷

One area in which the fields of both noir and social problem film overlap is in the recurrent debates over their generic status. With regards to the social problem film, even Roffman and Purdy, who do classify it as a genre, acknowledge what they deem the paradoxical 'extensive crossing of genres, since many problem films also fall into other movie categories'.¹⁹⁸ This paradoxical crossing, and the failure of any work on the social problem film to locate a specific shared visual style, setting, and iconography, leads to disagreement over the status of specific films. Roffman and Purdy's inclusion of *Mr Deeds Goes to Town* (1936, Dir: Frank Capra) in their discussion diverges from Maland's placement of Capra's films 'at the periphery of the form' despite an acknowledgment that they contain social problem conventions.¹⁹⁹ However, the fact that the social problem film does not

¹⁹⁷ V.F. Perkins in *Film as Film*, a text on film criticism that deals in questions of evaluation, argues that accomplished films form their significance at a level that is 'contained' rather than 'imposed'. Considering the latter type of significance, Perkins argues that the imposed 'description will indicate its status as meaning which is created by the superficial effort of organization involved in such manoeuvres as using a character as the mouthpiece for a speech'. [see V.F. Perkins, *Film as Film*, (London: Penguin Books, 1972 [1991 reprint]), p. 119]. The example he provides is a central convention of both the trial form and the social problem film, which perhaps explains the relative inattention that the field of film criticism has granted them.

¹⁹⁸ Roffman and Purdy, *The Hollywood Social Problem Film*, p. viii.

¹⁹⁹ Maland, 'The Social Problem Film', p. 308.

necessarily constitute a genre aids rather than hinders my own discussion. The courtroom trial form itself constructs its own set of conventions while alternately adopting from and bleeding into the conventions of other forms depending on the types of diegetic environment in which it appears. It is in this extensive crossing of generic boundaries that new patterns of representation emerge that are often more legible than their separated generic fields. Part of my interest lies in examining whether the intersection of the conventions of courtroom trial depiction and those of the social problem film produce distinct patterns of representation across a body of films.

The social problem film criticism I have looked at also suggests the specific appeal of the trial form to the social problem narrative. I hypothesise that social problem courtroom sequences are broadly distinguished by their didacticism, and function to allow for the articulation of the film's central social concern within a convention that also guarantees the affirmation of the status quo (as represented by a legal institution that ultimately works in the best interests of the 'victims of and crusaders against' social injustice). The conventions of the trial allow for individual characters to serve as mouthpieces that provide legible solutions to the contemporaneous social concern at play, and enables, through strategies outlined in my previous chapter, for the appropriate structures of emotional identification to be set into place. This also raises the more problematic issues that can arise in trial depiction and the social problem's strategies; in its distribution of the social and the personal, how regularly does it defer to presenting the white, educated male as the universal citizen, able to identify with and speak on behalf of (while maintaining a pivotal distance from) the socially disenfranchised other? My following readings of two social problem courtroom sequences will consider their strategies in relation to

this configuration of the social problem courtroom trial, but will also demonstrate how individual films contain their own strategies in representing the trial. I wish not simply to detect the defining features of what could be termed a social problem model of trial representation, but to look closely at how my case studies individually treat their narratives' emphases on a specific social problem through the inclusion of courtroom material.

The Courts, the Roads and the "Place to Hang your Hat": *Dust Be My Destiny*

Dust Be My Destiny contains two trial sequences that exemplify the specific appeal of the courtroom trial sequence for the social problem film. The different narrative functions and representational strategies of the two sequences demonstrate the film's negotiation of attitudes towards the social institutions which the court epitomises, with a literal double-trial structure employed to both demonstrate the systemic social problems that comprise the film's subject matter and (in the case of the latter trial) assure that faith in this same system is restored by the conclusion.

The social issues with which *Dust Be My Destiny* deals are specifically issues of homelessness and poverty in the United States of the Great Depression years,²⁰⁰ and how this problem impacts the younger generation of American men and women.²⁰¹ It is worth considering what other generic frameworks the film

²⁰⁰ It is worth noting that the release of *Dust be My Destiny* precedes the film adaptation of *The Grapes of Wrath* (Dir: John Ford, 1940), a more popular and acclaimed example of the Great Depression as social problem film that deals with similar subject matter.

²⁰¹ The film opens on Joe Bell (John Garfield) meeting with the prison warden at the institution of his current incarceration. The Warden informs Joe that the actual culprit of the crime for which he has been imprisoned has been caught, and Joe is thus free to go. Understandably embittered, Joe promises to "turn the other way" when compelled to intervene in instances of injustice from now on. However, Joe's subsequent inability to travel without jumping boxcars lands him in more trouble with the law, when a burglar Joe encounters on the boxcar implicates him in his own crimes. Joe ends up on trial, and his previous convictions, vagrant status and refusal to be silenced

draws from, and how it positions itself as a commercial film as well as a social document. Contemporary publicity for the film emphasises its social consciousness, with a summary in fan magazine *Photoplay* providing one example: ‘In this depressing, although gripping study of social problems, John Garfield again plays a young have-not who has been imprisoned unjustly and whose attempts at readjustments [sic] are thwarted by current conditions’.²⁰²

This summation typifies the positioning of social problem pictures as important works, ‘studies’ of ‘current conditions’ within U.S. society, that are implicitly contrasted with the bulk of studios’ output (considered mere entertainment). However, their ability to engage - or, to use this review’s phrasing, ‘grip’ - the audience must also be evidenced, and the *Independent Exhibitors Film Bulletin* summary goes further, suggesting that the filmmakers ‘naturally lay more stress on the romantic and melodramatic features of the story than the social’.²⁰³ This exists alongside the fact that the year of the film’s release – 1939 – is already some way removed from the worst years of the Great Depression. This is a post-New Deal and pre-U.S. WWII intervention film, and thus its central problem is

during trial leads him to be sent to a prison work farm. It is here that he encounters a sadistic, alcoholic warden, but also the latter’s niece Mabel (Priscilla Lane), with whom Joe falls in love. The young couple are discovered together by the warden, who attacks Joe and suffers a lethal heart attack. A panicked Joe and Mabel escape the work farm and go on the run. They marry, and are subsequently taken in by kindly diner owner Nick (Henry Armetta), to whom they divulge their fugitive status. The police track the pair and jail Mabel, but Joe, enlisting Nick’s help, is able to break her out of jail before continuing their escape from the law. Nearing destitution, Joe finds work as a photographer for newspaper editor Mike Leonard (Alan Hale) after managing to obtain photos of a bank robbery. Once again, the couple decide to disclose their fugitive status to an understanding Mike. When Joe subsequently saves Mike from an attack by the robbers who he previously photographed, Mabel realises in the ensuing publicity that Joe must turn himself in. Against Joe’s will, Mabel turns him in to the police, and a courtroom trial ensues in which Joe condemns the jury – and by implication, society – for their refusal to see him and others like him as fellow citizens. However, emotional appeals in the courtroom by, firstly, Joe’s defence attorney (Moroni Olsen), and secondly Mabel, sway the jury, and Joe is found not guilty of the work farm warden’s murder. Joe and Mabel are reunited, and begin planning their life together.

²⁰² Anon. “Dust Be My Destiny – Review” *Photoplay* Jul - Dec 1939: 65. Print.

²⁰³ Anon. “Previews” *Independent Exhibitors Film Bulletin* Jan 14 1939: n. pag. Print

arguably less “current” (and thus less controversial) than it could have been.²⁰⁴

Already a tension between the film’s social function and its status as entertainment product is evident, one that exists in all examples of the social problem film, and that the films must negotiate.²⁰⁵ Thus, the casting of established star screen couple John Garfield and Priscilla Lane,²⁰⁶ pairing them in a lovers-on-the-run romance, suggests a combination of generic frameworks and existing conventions designed to increase the film’s viability as entertainment. Likewise, the Warner Brothers studio’s association with social realism and the emerging star persona of Garfield were factors that seemed to solidify the film’s status as a social problem picture that could nevertheless engage the commercial audience.²⁰⁷

The specific treatment of this basic generic material clearly demonstrates how social consciousness and entertainment are married in *Dust Be My Destiny*. The film is focused upon the romantic pairing of Garfield and Lane and their subsequent struggle to make a life for themselves, rather than other potential avenues available to the crime narrative which rely more upon violence, action and criminal behaviour. This decision allows for the ‘humane concern for the victim(s) of [...] the social problem’ that Maland considers one of the defining features of the social problem film to be integrated into its structure. This also appears to have

²⁰⁴ Tellingly, the date of the narrative events themselves are never identified within the film. By refusing to overtly date itself, the film can claim to both deal with a ‘current’ issue and position this issue safely in the recent past.

²⁰⁵ For more on the debates surrounding the social problem picture’s problematic relation to the American cinema’s emphasis on producing entertainment, see Campbell, ‘The ideology of the social consciousness movie’ (1978), pages 57-58.

²⁰⁶ Garfield and Lane has previously co-starred in *Four Daughters* (1938, Dir: Michael Curtiz) – a star-making film for Garfield, which earned him his first Oscar nomination – and *Daughters Courageous* (1939, Dir: Michael Curtiz).

²⁰⁷ John Garfield had previously played disenfranchised working-class heroes in Warner Brothers features *They Made me a Criminal* (1939, Dir: Busby Berkeley) and *Four Daughters*, and would continue to be associated with socially conscious films throughout his career including *Gentlemen’s Agreement* (1947, Dir: Elia Kazan) and *Force of Evil* (1948, Dir: Abraham Polonsky).

been a concern of the filmmakers, with Warner Brothers producer and scenarist Mark Hellinger stating in a letter to Hal Wallis that ‘You’ve got to feel sorry for Mabel and Joe from the very moment you meet them [...] *Dust Be My Destiny* should be treated as a love story – not as a gangster film’.²⁰⁸

Dust Be My Destiny casts Garfield to type as Joe Bell.²⁰⁹ The film asserts from its opening scene, in which he is released from prison, that Joe is fundamentally a decent citizen, only technically a criminal, and more importantly, doubly victimized by circumstance and an uncaring system. The factors that conspire to place him on a work farm within what we assume is days of his release from prison (and minutes of the film’s screen time) are listed in his dialogue to fellow workers:

“If it ain’t a couple of tramps it’s a railroad digger, if it ain’t a railroad digger it’s a judge, if it ain’t a judge it’s a screwy foreman, if it ain’t a screwy foreman it’s a dame. Whatever it is, it’s gotta happen to me.”

This speech, recited facetiously by Garfield, exemplifies the film’s careful negotiation of the blame for Joe’s predicaments, and the conflicting impulses of the social problem film. On the one hand, Joe can be seen to be merely unlucky (“Whatever it is, it’s gotta happen to me”), a reading bolstered by Joe’s/Garfield’s flippant delivery of the dialogue. On the other hand, the series of misfortunes that

²⁰⁸ Letter reproduced in Herzberg, Bob. *The Left Side of the Screen: Communist and Left-Wing Ideology in Hollywood, 1929-2009* (McFarland, 2011), pg. 86.

²⁰⁹ James N. Beaver provides a neat summary of Garfield’s film persona that applies to the use of him as star in *Dust Be My Destiny*: ‘Here was a man [...] who felt little pride in himself and none in the society that had spawned him. He verged on paranoia in the fear and disgust he felt for “them,” the unseen powers that were “out to get him.” His stout insistence on fending for himself, coupled with his distaste for a steady job within the system, put him at odds, not only with contemporary society, but with his own cynical, yet basically decent, self.’ [James N. Beaver, *John Garfield: His Life and Films* (South Brunswick and New York; London: A.S. Barners and Company; Thomas Yoseloff Ltd, 1978), p. 19].

befall Joe are also indicative of a broken social system, particularly in his references to the ‘screwy’ foreman and the judge. Joe’s circumstances justify his cynical mistrust of the institutions that have failed him.

The judge he refers to appears in a preceding trial scene. This scene exemplifies the presentation early in the film of the broken system, contrasting the sympathetic portrayal of the prison warden in the opening with a biased judicial official and depicting a court system which treats Joe unfairly. The sequence opens on a shot of the County Justice of the Peace (John Sheehan), sat behind his desk. His physical type and costuming instantly carries a set of connotations that do not correlate with the typical image of the cinematic judge (Fig. 30). He is gaunt, haggard, and ill-presented in a poorly fitted suit; his appearance fits the stereotype of the hard-nosed, over-worked and uncompassionate official. The dialogue given the character from the outset of the scene conveys not just a lack of compassion, but a clear bias against the social type to which Joe and his friends belong. Thus, instead of summoning Jimmy (Bobby Jordan) to him in a formal manner, he states brusquely “You, come here”. No sooner have the boys begun pleading their case than he replies dismissively, “Oh, tramps huh?” The dialogue and Sheehan’s performance convey a prejudice against the boys contrasted with Joe’s insistence that they are hard-working citizens. The judge is often seen looking down at his notes rather than up at the court, yet he is also the only legal representative in the room, and the choice to open the sequence on a shot of him not only establishes the scenario, but serves to establish the unquestioned authority he holds over the space. Such an impression of the judicial official, particularly the character who holds judgement, and who is typically figured as nonpartisan,²¹⁰ gestures towards a

²¹⁰ See Chapter One, pp. 68-72.

critique of the legal system at this point in the narrative, one which *Dust Be My Destiny* will have to counter to ensure the affirmation of national ideology and the approval of the Production Code.²¹¹



Fig. 30.

The judge's barely concealed prejudice is one of the many ways in which this hearing diverges from the conventions of the courtroom trial sequence outlined in my previous chapter. These divergences are crucial in that they convey the systemic social problems that the film is addressing; that is, they convey the mistreatment and marginalisation of the Joe Bells of the world, by presenting not a proper trial (and corresponding trial sequence), but a trial that fails to imbue its cases with any significance. This is a minor case that takes place in a localised court and which is presided over by a County Justice of the Peace rather than a judicial

²¹¹ The unsympathetic depiction of the judge in *Dust Be My Destiny's* first trial can be contrasted with the benevolent, compassionate judge of the early trial sequence in *Gun Crazy* (1949; Dir: Joseph H. Lewis) a later film that doubles as both social issues film – dealing with the problem of juvenile delinquency – and fugitive couple narrative. Glenn Erickson suggests that the sympathetic portrait of the legal system established in this sequence was a key contributor to the film's ability to receive Production Code approval despite its subsequent sustained depiction of a criminal lifestyle [see Glenn Erickson, audio commentary on *Gun Crazy* (1949) (DVD, Warner Brothers, USA, 2004) ASIN: B000244EWY]. Inversely, I would suggest, the highly critical treatment of the trial in this first scene of *Dust Be My Destiny* is countered by the following narrative, with its sympathetic and non-criminal central romantic couple and the ultimate affirmation of the criminal justice system at the film's climax.

officer of higher ranking.²¹² There is an absence of the procedural conventions and iconographic signifiers that typically work to present the trial as a socially significant and formalized event. The room in which the sentencing takes place bears little relation to the ornate courtroom settings of several golden age films, but instead is small and bare, provided only with individual chairs (Fig. 31). Including the coat hooks that adorn the walls, the production design overall suggests that this space occupies several functions aside from court, and it is not imbued with the specific meaning of a courtroom set (even the ubiquitous U.S. flag appears to be absent). A smattering of individuals, mostly anonymous, shoddily-dressed men, comprise the spectatorship. Of these spectators, Pop (Charley Grapewin) is the only character who has appeared in the preceding scenes. Yet, like the production design, the presence of the solitary rail-worker (while a compassionate figure) also suggests an impoverished milieu. The overall impression is of a makeshift space, one in which trial proceedings occur swiftly and with little investment on the behalf of the system, reflecting the mistreatment of Joe and his fellow forgotten boys by society's institutions.

²¹² For context on the role of the Justice of the Peace (and, specifically, the relative inferiority of this role in comparison to the judicial officers usually present in films' trial sequences), I include the following definition of the title from *A Dictionary of Law* (Henry Campbell Black, 1891):

"In American law. A judicial officer of inferior rank, holding a court not of record, and having (usually) civil jurisdiction of a limited nature, for the trial of minor cases, to an extent prescribed by statute, and for the conservation of the peace and the preliminary hearing of criminal complaints and the commitment of offenders." (672)



Fig. 31.

The trio have no legal representation, and their differing behaviours in the court space swiftly conveys respective familiarities with and attitudes towards the law. Jimmy's muteness on the stand conveys the fear of an individual unfamiliar with the law, and demonstrates the silencing the system's structures can impose on the disenfranchised. He is contrasted with Joe, whose inability to keep silent demonstrates at different points his concern with injustice (characterising him as someone who cannot "look the other way", despite his promise in the opening scene) and his cynical attitude towards the court system (and the other structuring systems in American society). If the two brothers are new to the vagrant's life, Joe is an old hand and understandably embittered. He approaches the Justice's desk and interjects during the questioning of Jimmy – which would be a more dramatic development within the highly regimented procedures of the sophisticated trial (sequence), but is tellingly not granted the same emphasis here – and states, when Hank expresses concern that Joe's behaviour will bring harsher judgement upon them, "I've been in courts before, I know the answer for guys like us." This is the direct articulation of the mistreatment of Joe and his kind by a flawed system, and both a reiteration and affirmation of Joe's lack of faith in this system. When the

verdict is given, Joe gets extra-time for “contempt of court”, a decision rendered ironic by the shabby state of this court and its processes, and another indication of the biases the film suggests are swaying the judgment of the Justice of the Peace. It also establishes the theme of Joe’s outspokenness getting him into trouble with authority figures, another characteristic of Garfield’s persona.

The ensuing work farm scenes re-assert the features of Joe’s characterisation and the depiction of a world in which he is continually punished for his refusal to stay silent. The foreman’s first interaction with the new band of workers climaxes in his slapping Joe and the warning “first thing you’ll learn here is to keep your mouth shut.” Mabel warns Joe on their first meeting “You’re too free with your tongue.” However, the ensuing romance between Mabel and Joe functions to soften the edges of Joe’s character, establishing in him a desired relationship to the kind of life that we have only seen him in opposition to at this point in the narrative. This is a specifically American way of life typified by the values of domesticity, stability, and (rewarded) hard work. Its assumed attainability for Joe and Mabel is dependent upon an implied belief in the American dream to which upward social mobility is a central promise.²¹³ The fugitive section of *Dust Be My Destiny* does not dramatise the wilful escape from this way of life, but rather the repeatedly frustrated attempts to construct it whilst on the run, typified by the motif in the dialogue of the desired “place to hang your hat”. Mabel functions as a

²¹³ The American dream was a term that first came to prominence through its appearance in James Thruslow Adams’ book *The Epic of America* (1931). Adams theorised an idealised image of America as a meritocracy in which all American citizens were accorded the opportunity to attain a better life for themselves through hard work and achievement. Adams’ book was written in the early years of the Great Depression and *Dust be my Destiny*, for much of its narrative, can be seen to draw upon a tension between the notion of the ever-attainable American dream and the limited opportunities afforded the working classes in a capitalist society during a time of economic crisis (by the film’s end, it would appear that the former is affirmed).

consistent reminder to the audience of Joe's desired relationship to this way of life, as well as a condition of it.

The section of the narrative which features Joe and Mabel on the run is punctuated by the appearance of a series of characters who represent the decency of the common American, thus tempering (and one might argue, softening) the film's social critique with a recurrent gesturing to the goodness of the individual as the enabler of the couple's survival. Amongst these characters, of whom Pop serves as the first clear example, the most prominent are diner-owner Nick (Henry Armetta) and newspaper editor Mike (Alan Hale). Together they constitute a vision of a patriarchal America centred on the affirmation of masculine nurture and aggression. These characters function, at different points in the narrative, to affirm Joe and Mabel's essential decency, providing them with housing and work and aiding them even when their fugitive status is revealed. Their treatment of Joe and Mabel – and inversely, the couple's treatment of them – suggests to the viewer the attainability of a stable way of life through individual compassion, and consistently figures the couple as suited to and eager for this lifestyle. The newspaper in particular is seen as the locus of U.S. goodness; both the small town paper and Hale as a screen presence would contain positive associations for the audience.²¹⁴ When contrasted with Joe's treatment by the Justice of the Peace in the initial trial, it is clear that the film begins to posit compassion as the solution to the social problem it presents, displacing the broader social issues on to the level of individual interaction.²¹⁵

²¹⁴ Hale was a highly prolific and popular character actor who frequently played sidekicks to leading men of the era including most often Errol Flynn (in films such as *The Adventures of Robin Hood* (Dir: Michael Curtiz, 1938) and *Dodge City* (Dir: Michael Curtiz, 1939)).

²¹⁵ One interesting element of the film's depiction of American-ness is the space it allows for immigrant characters (including, most obviously, Nick, but also the grocery store proprietress whom Joe encounters later in the film). Interestingly, the proprietress is the only female character

Solutions are grounded in personal relationships, and the emotional identification that Patton argues is central to the later social problem cycle is clearly evidenced here too.

The fugitive mid-section of the film's narrative allows for the central couple's decency to be underlined. This is particularly the case with Joe, who is consistently figured as incapable of committing a crime against another human being, an inability most obvious during the scene in which, during the worst of the couple's destitution, he fails to rob a grocery store as per his initial intention. In this sense, the main body of the film is itself evidential, providing a version of Joe's character that the audience can juxtapose with that presented by the prosecution in the final court sequence. What the film emphasises in its divergence from other possibilities available to the fugitive scenario is the quandary of the decent individual(s) forced into fugitive status. This allows it to posit a circumstantial basis in a certain type of criminality (i.e. the essentially harmless and necessitated minor crimes of the Joe Bells of Depression-era America), and, with a more conservative inflection, juxtapose this criminality against the thrill-seeking and mercenary criminal behaviour of the gangster archetype. The presence of gangster figures late in the narrative will make this point of comparison explicit.

Joe and Mabel's exclusion from domesticity and inability to ascend to social convention is thus a pivotal thematic element and source of dramatic tension throughout the fugitive portion of the film. This is exemplified in the treatment of their marriage, an event which is typically emblematic of the ascent to bourgeois domesticity, but which here becomes a painful reminder of the exclusion from it.

outside of the central couple who is granted the "decent American" treatment, which again attests to the aggressively patriarchal image of good America the film presents.

The couple are lured into a wedding ceremony that is staged for an audience of onlookers as paid entertainment, and becomes a humiliating public spectacle that anticipates the terms of the climactic trial. The wedding serves as their first exposure to public scrutiny and judgment, anticipating the trial but also articulating the impossibility of reconciling their life as societal outsiders with their desired domesticity.

It is the combination of the two aforementioned factors – the decency of the common American, and the rightness of the sanctioned American way of life – that constitutes the solution to the social problem the film raises, and which reaches its full articulation in the climactic courtroom sequence. Before looking in detail at this sequence, it is worth considering what is at stake narratively (and ideologically) by the time we reach the courtroom proper. The essential conflict is one of Mabel's belief that the system of American social institutions, exemplified by the court, works to benefit its citizens, and Joe's insistence that the system is biased against him and those like him. Thus, the issue of innocence and guilt in the courtroom takes on an added resonance in keeping with the schema of the social problem film and the double-trial structure. A guilty verdict means a broken system; a not guilty verdict affirms faith in the system.

Much of the tension with which this trial is imbued also stems from the earlier trial scene, in which a bias against Joe was made evident. This second trial sequence opens similarly, recalling the earlier abuses of the system by presenting a shot of the Judge (George Irving) sat behind his desk, in this instance as the opening statement of the off-screen Prosecutor is heard on the soundtrack. The same shot composition is employed as in the earlier sequence; the differences lie largely in the appearances of the judges themselves (see Figs. 32-33 for a

comparison). The inherent flatness of the judge (treatment of him is, as convention dictates, respectfully distant) here generates some ambiguity as to his character. We are left to wonder whether the legal institution will simply repeat its biases and flaws.



Figs. 32 (top) and 33 (bottom)

From this initial framing of the judge, the camera pans right to establish the rest of the courtroom space, then tracks to follow the Prosecutor (John Litel) as he makes his opening statement to the jury. The more spectacular nature of this trial, conveyed in the reframing's incorporation of the crowded spectatorship, stands in contrast to the insignificance of the earlier proceeding. The montage of news headlines regarding the trial that immediately precedes the sequence demonstrates the media intrusion often evoked in trial depictions, which draw attention to the inevitability of the reduction – or outright distortion – of the facts to their most sensationalistic elements.

Similarly, the Prosecutor's statement constructs a version of Joe's character and history that we know to be a distortion based on the events we have witnessed in the preceding narrative – the court is informed that Joe “drifted into this town a vicious criminal, with a history of ten arrests” and “reached the pinnacle of his career of crime by committing a cold-blooded murder.” While the charges against Joe's character escalate, the camera's movement shifts from following the prosecutor to tracking in on Joe himself. He is not looking up at the Prosecutor, and his body language, with his head resting on his hand, suggests that he is not listening either. Thus our first impression of Joe in the court is one of a resigned figure, the individual who expects an unfair treatment from the court and no longer has the will to fight it (contrast this with the equally cynical, but considerably more animated Joe of the earlier trial). A more emotionally engaged perspective is offered by the following shot of a concerned Mabel and Mike, who are visibly responsive to the opening statement's distortion of Joe's character. Thus Joe's loss of faith in the system – and his failure to attempt to fight it – is immediately shown to be narratively significant, and the inclusion of Mabel's distress reiterates that the conflict of their attitudes needs to be reconciled for narrative resolution.

The sequence proceeds by employing the convention of the series of witness testimonies, presented in short segments and culminating in the testimony of Joe himself. This portion of the sequence groups the testimonials together through a patterning of narrative event and shared stylistic rendering of each questioning through an accelerated pattern of shot/reverse shot edits and transitions that wipe from one witness to the next. Narratively, in each instance the witness, attempting to convey their more nuanced understanding of Joe's character, is undermined by the Prosecutor, whose tactics involve several recurrent strategies: implying the

witnesses' culpability in aiding and abetting Joe; dismissing their defences of Joe's character as evidentially immaterial; and tearing down their character through reference to their own social status. The latter tactic is especially apparent when Hank takes to the stand; his brief appearance again suggests the abuses of the previous trial as the Prosecutor uses his "criminal" and vagrant status to dismiss his testimony.²¹⁶ The relative absence of dramatic emphasis and differentiation given to these portions of testimony swiftly demonstrates the trial process's flattening of the issues down to a few facts that will inevitably prove Joe's "guilt". The legal system must be shown to be working, at this point in the trial, to the detriment of Joe for the sake of dramatic tension. But the strategies employed by prosecutor and filmmaker also allows the film to dramatise the central social problem with which it is concerned, the unfair treatment of vagrants by society and its institutions.

Thus, the legal institution – at this point, personified by the actions of the prosecutor - is initially ambivalently presented as working against the interests of justice, an ambivalence which is rendered through the selective depiction of the trial's procedural conventions. The first witness depicted, the work farm employee who found the foreman's body but who maintains that "he didn't look [...] as if he'd been hurt bad" is admonished by the Prosecutor for "interpreting" events that he should be merely "describing". Pop then takes to the stand as a character witness for Joe. Referring to the box car incident, Pop states "I meet a lot of kids like [Joe] and whenever I get a chance, I give them a break. I think they need it," a clear reiteration of Pop's homespun decency, endorsed by the film. Following this statement, there is a cut to the Judge, who instructs Pop sternly to "Just answer the

²¹⁶ Of course, as with Joe, what we know about the character distinguishes him from the type of criminal referred to in the prosecutor's statements.

questions.” The following exchange between the Prosecutor and Pop, that ends the presentation of his testimony, exemplifies how the processes of the trial are represented in this section of the sequence. The Prosecutor brings up the fact that Pop has only met Joe twice but is testifying as a character witness, then states a dismissive “That’s all” to the court. Pop’s attempt to reassert his perspective by exclaiming “but you don’t understand” is interrupted by a more emphatic “That’s all”, effectively silencing the frustrated Pop and granting the system and its representative the final word.²¹⁷ This continues the theme of silencing being enforced through power relations that has been present throughout the film, and typifies the prosecution’s ability to disallow any divergent perspective to be entertained. The fact that Pop and Hank are sympathetic characters who have appeared in the preceding narrative invites the viewer to identify with them over the law and its flat representative. Of course, the tension of the sequence resides in the current inability of Joe’s innocence – both of the crime in question, and in relation to the social system (i.e. the notion of Joe as a decent citizen) – to be articulated within the courtroom.

The convention of placing individuals who have an emotional investment in the case on the witness stand continues with Nick, the following witness, whose fundamentally decent, common-sense value system is reiterated here and juxtaposed with the legal point of view. Nick admits he gave Joe a job because “Back in the old country [...] somebody help me, I help somebody else.” He asserts when asked that he is a law-abiding American citizen (thus making explicit the Americanism of his values), but when the Prosecutor responds by arguing that in aiding and abetting he broke the laws, Nick becomes visibly emotional. His

²¹⁷ I considered this convention of the trial scene in the previous chapter, see page 102.

response, “you know, some time, what is in a man’s heart, it’s-a stronger than the law”, is part of the conventional positioning of emotion-based understanding as beyond the access of the law, or at the very least, inaccessible to its processes.²¹⁸ Nick is easily a sympathetic character whose perspective we can take on in this moment. His emotion here introduces a mode of persuasion into the trial that reaches its fullest articulation when Mabel takes to the stand later on. The structures of emotional identification noted by Patton and Maland that guide viewer response to the social problem are, at this moment, employed to cast the law in an antagonistic light. However, the later developments will subsume the rendered emotions into the depiction of a just trial outcome, increasingly integrating emotional identification into the trial’s processes.

Mike is the following witness, and his comparatively superior social standing to the previous witnesses correlates to a more relaxed and less emotional demeanour on the stand. He instantly exudes a sense of authority, augmented by the transition to him at a point when he, rather than the Prosecutor, is speaking. Thus the sense of the depicted event as a questioning, and the correspondent power dynamic that suggests, is undermined; opening on Mike mid-statement makes the moment feel more like an independent proclamation than a response required by law. Mike states “All he needed was a break. I guess there are a lot of boys like Joe Bell running around, desperately groping for a chance. And it seems to me there are those of us who could help them who never even stop and take time out to think about them.” The Prosecutor responds by suggesting Mike “save his editorials” for his newspaper. The film’s self-consciousness here does not obscure but underlines

²¹⁸ The screen presence of John Garfield also lends itself well to a discourse that prioritises the emotional over other factors.

the earnestness with which Mike's suggestion is being framed. The culpability of society in the problem of homelessness is raised, and Mike's dialogue clearly addresses both the "us" of the courtroom, and the "us" of a broader society which includes the film spectator. Mike's association of Joe Bell with the other "boys running around" invites the audience to contemplate similar narratives taking place off-screen, although the critical edge of the address (chastising the audience for their neglect) is tempered by the introduction of a solution implied to be a simple one – "all he needs" is a "break", the kind that has been depicted throughout the preceding narrative. Mike's testimony anticipates the following speech, made by the defence attorney, in the didacticism achieved by associating Joe's story with the broader social concerns of the film, and by drawing attention to the wider group for which Joe acts as a representative.

The previous testimonies can be grouped together through their shared structure and development, forming a pattern that reiterates what appears at this point in the narrative to be a bias against Joe. The remainder of the trial sequence forms another pattern, looser but more emphatically presented, that has three characters address the jury (and by extension the film spectator) consecutively. The different ways in which Joe, the defence attorney and Mabel address the jury, and how these addresses are represented, particularly in their considerations of the jury, together form a development that fully articulates the social problem the film wishes to address before restoring faith in the court system.

There is a transition from Mike to Joe on the stand. By this point in the narrative, the case against the defendant has been presented through the undermined defences of the witnesses. At this point, Joe's attitude towards the legal system has understandably undergone no change, and his simultaneously resigned and

defensive demeanour remains in place. When the Prosecutor asks why he did not attempt to clear his name upon realising he was accused of murder, Joe replies “I once served time for something I didn’t do. I told them the truth and they threw me in jail. They wouldn’t believe me then, why should I expect them to believe me now?” There is a cut to the judge, who admonishes Joe: “Young man, this is an American court. Under our laws a man is considered innocent until he’s proven guilty. Are you under the impression that you’re not being tried by a representative American jury of your equals?” Once again in this moment the judge is situated as both impartial voice of the law, speaking to (explicitly situated) American, democratic values, and a more ambivalent figure, whose admonishment could also speak to a lack of compassion. The film has to begin forgiving the system at this point, but an ambiguity is permitted in the light of the “screwy” individuals we know to have previously persecuted Joe (the burglar who falsely implicated Joe in his crimes, the justice of the peace). The “equals” the judge speaks of could be of this type as much as they could be of the compassionate group (Pops, Nick, Mike) presented in the fugitive section of the narrative.

The judge’s question elicits a speech from Joe that damns the jurors as representatives of a society that has no place for him, and which constitutes the most direct criticism of society and the ideology upholding the judicial system’s workings thus far presented in the film. Joe states “Equals? They don’t think I’m their equal. Why should they? I’m not a responsible member of their society [...] This case isn’t going to be decided on whether or not I committed this murder, but on who I am”. During this speech, shots place the camera behind Joe’s shoulder to view the jury. The viewer’s line of vision thus aligns with Joe’s, and the ensuing inscrutability of the jury is both played for tension and implicitly (through this

inscrutability) allows us to see them briefly from Joe's highly cynical worldview (Fig. 34). Following Joe's speech, the off-screen gavel is heard, and there is a cut to the judge, who once again admonishes Joe, reiterating that the jury will base their verdict on the facts only. The judge's statement, however, does not sufficiently counter the depiction of a previously biased legal system, and Joe's failure to adjust his attitude subsequently is carried out to the extent of "confessing" on the stand that the prosecution's distortions have been the truth in order to "get this thing over with." The extent of Joe's cynicism towards the system leads him to willingly accept the possibility of a death sentence.



Fig. 34

The film must now negotiate the validity of his anger with the happy resolution that has to occur. By this point in the trial sequence, the tension between the film's pivotal climactic articulation of its social problem and the ideological and conventional imperatives of the Hollywood cinema are most evident. Joe's cynicism and rage must be seen to be justified to some extent, but the subsequent narrative developments share two linked goals; to see justice served, and to restore faith in the system which Joe has criticised on the stand. Of course, this will be achieved through the eventual reading of a not guilty verdict. But in order to get to this point convincingly, a significant emphasis is placed on the following two

monologues, and their varying addresses to both diegetic and film spectators that serve to explain and excuse Joe's own speech.

The first of these is the defence attorney's statement, a convention that tends towards affirmative depictions of the judicial system. The transition from Joe to the defence attorney (Moroni Olsen) is telling. The same shot incorporates Joe's journey back to his seat from the stand and the attorney's gesture of standing and approaching the jury to begin delivering his statement. The fluidity of the transition leaves the viewer little time to process Joe's defeatist admission and justifiable rage at society, as the more ideologically reassuring character type of the judicious attorney assumes the role of the audience's primary identification figure. The defence attorney's subsequent monologue is central to the sequence, situating him as the mouthpiece for the film's didactic message, and the personification of a functional judicial system in a manner that anticipates the justice figures of the golden age trial films.²¹⁹ The attorney's uninterrupted speech encompasses two and a half minutes of screen time and is comprised of only five shots, all centred on this personification of justice.²²⁰ His flatness – the character has not appeared in the film

²¹⁹ Both the climactic speeches of Atticus Finch in *To Kill a Mockingbird* and Jonathan Wilk in *Compulsion* bear striking similarities to the content and approach of this section of *Dust Be My Destiny*.

²²⁰ The length and significance of the speech itself necessitates a transcript:

Joe Bell has summed up the issue in this case far better than any other could. And he went right to the heart of things when he said this trial is being judged not on whether or not Joe Bell killed this man, but on who Joe Bell is. And he answered that for you too. He's nobody. Just nobody. Well there are an awful lot of nobodies in this world, a great many more than there are somebodies, and if they were all to be judged only on that basis, then you'll have to say that the whole system of American democracy that we believe in is wrong. And that's why this trial is so important. Now the prosecuting attorney's tried to make you believe that this boy was already a hardened criminal when he first got into this town. If he was, by the light of the testimony that's been introduced here, then you've got to say that thousands of boys like him, wandering over the face of this country, looking for their little spot in the sun, are criminals too. And I don't think you believe that. And that's another reason why this trial is so important. Because it means an awful lot, not only to Joe Bell but to those thousands of other boys who are like Joe Bell, and who are watching this trial because they feel that what happens to him here in this courtroom will happen to them

prior to this sequence, and will not be seen outside of the courtroom – is significant for several reasons. It allows him to embody the virtues of the judicial system which the film must now affirm (its fairness, its lack of bias, its sincerity, etc.) without any personal characteristics intruding upon the presentation of these virtues. This same lack of depth also allows the character to convincingly assume the role of mouthpiece for the film’s didacticism. The sincerity with which Olsen performs the role – his tone is emphatic yet gentle – is also of significance, as his benevolent impression works to counter the depiction of legal and social institutions (and their representatives) elsewhere in the film. The jury here is consistently evoked as the attorney’s audience; they are never in the frame, but his movement, gestures, and the staging of the sequence ensures that their presence is felt.

The attorney’s speech continues the theme of linking Joe to the other “nobodies” in American society, through which the film registers itself as being committed to a wider social problem. This correlates with a broadening of the speech’s address from the diegetic jury spectatorship to the filmic spectator, which is embedded in the dialogue’s self-conscious, paradoxical acknowledgement of the “boys who are *watching* [my italics] this trial” outside of the courtroom. This line of dialogue relies upon an assumed visual (“watching”) broadcast of the trial within the film’s world to make logical sense, which is highly unlikely. A more convincing argument suggests instead that the film here collapses its doubled audiences and provides a direct address to the viewer and thus to the social world

too. And you can't let them believe that. Ladies and gentlemen, you cannot brand them as criminals and kill them all off. A criminal's grave must not be their destiny. And it must not be their share of the earth we call America. Now I think all you need is not a lot of legal testimony, but just to understand this boy. To feel what's really inside his heart. And I guess the only way you can ever feel that is to have the person who's closest to his heart tell you about it: Mabel.

the film represents and reflects. The possibility for such directness of address is arguably the most beneficial element of the trial form for the socially conscious narrative film, and is used to full effect here.

Of course it would be remiss not to consider also the actual content of the monologue. The issue of social prejudice, raised by Joe, is reiterated, but in the gentler, more appealing register of the defence attorney. His speech reconfigures the terms of this prejudice, relating it to issues of patriotism and the rightness of the American judicial process; to judge Joe on a prejudicial basis is to “say that the whole system of American democracy that *we* [my italics] believe in is wrong”. The sequence begins the process of affirming the essential features of the American democratic system – which is implicitly universally understood to be a correct one - after the preceding critique by Joe (and the earlier critique embedded in the first trial sequence). But the final shift of the speech’s tone brings us to the role of the emotional appeal, as the attorney states “all you need is not a lot of legal testimony, but just to understand this boy. To feel what’s really inside his heart.” This continues the strain of emotionalism that began with Nick, and which will reach an apotheosis with Mabel, and acts as the cue to invite the latter to the stand. It recalls Pribram’s contention that the law-and-order genres and juridicial processes share an ‘indispensable engagement with emotions’ despite their protestations otherwise.²²¹ Here, the attorney implies the inadequacy of man-made law (“not a lot of legal testimony”) and instead situates the processes of emotional identification viewed by Patton as central to the workings of the social problem film, as the key to a just

²²¹ See Review of the Literature, page 47.

outcome. Justice is contingent upon, and natural law aligned with, emotional identification.

Mabel's subsequent appeal on the stand constitutes the final portion of the climactic trifecta of speeches. The primacy now given to the emotional appeal also recalls Maland's designation of a 'humane concern for the victim(s) of [...] the social problem' as central to the social problem film. The choice to make Mabel so crucial to the sequence in its climactic moments serves as a reminder of the other major narrative thread that must be resolved in the courtroom, which is the fracture of the Joe/Mabel relationship. Mabel's testimony is preceded by a shot in which she approaches the stand. Her brief attempt to reach Joe by placing out her hand as she walks by, which he ignores, and the camera's subsequent push in on an anguished Joe, reiterates the personal factors at stake.

The scene then fades to Mabel's testimony, with an initial medium shot framing that moves into a close-up as the camera slowly pushes in on her (Figs. 35-36).²²² The camera movement emphasises Mabel's emotional state, especially in combination with Lane's performance style and the simultaneous introduction of low-tempo orchestral scoring, uncommon within the courtroom sequence and hitherto unutilised in this sequence. Voice tremulous and eyes brimming with tears, Mabel's testimony speaks again to the essential decency of the central couple, marking the return of the "place to hang your hat" motif and signalling through Mabel's devotion to Joe the sincerity and rightness of their coupling. Although pitched differently in terms of tone, Mabel's testimony parallels the preceding

²²² The choices of framing, composition and camera movement relates to the strategies employed to invoke viewer emotional identification with the witness outlined in the previous chapter (see pp. 83-89).

speech in its direct appeal to the jury, as she states of Joe “he thinks that the world is against him, that he hasn’t got a chance. But he’s wrong. You’ve got to prove to him that he’s wrong. I believe you will. I believed it so much that I took a chance on turning him in.” The ideals of belief and trust evoked here again speak to the affirmation of putting faith in individual decency and the notion that decency is itself universally legible and visible (which again relates to ideas surrounding universal moral principles that underlie the concept of natural law). Lane’s eye-line in these shots moves between Joe and the jury (both out-of-shot), linking the two together through her teary-eyed faith in both.



Figs 35 (top) and 36 (bottom).

Mabel’s speech culminates in emotional breakdown on the stand, conveyed through the acts of sobbing and lowering her head (Fig. 39). Herzberg details how Hall Wallis insisted upon eliciting as highly emotional a performance from Priscilla Lane in this scene as possible. In a memo sent to the film’s director and studio

scenarist, Wallis argued that ‘unless she convinces the audience, it is going to be pretty hard to swallow the fact that she also convinces the jury in spite of all the evidence against the boy, he should be acquitted’.²²³ This suggests the underlying precariousness of the resolution with respect to the preceding narrative developments. In order for the turnaround to be ‘convincing’, the emotion must be heightened enough to obscure the likelihood that (due to the prosecution’s case and the social prejudices which the film has drawn attention to) Joe would be found guilty. Wallis’ memo is also interesting in that it again links the audiences of diegetic jury and filmic spectator, in a desired shared reaction to Mabel’s address.

It is imperative, then, to consider how Mabel’s speech and its depiction works to convince these doubled audiences and ensure the sequence’s resolution. Firstly, there is the content of the speech itself. It includes the aforementioned element of the emotional appeal, the demonstration of Mabel’s devotion to Joe, an integration of some evidential testimony (Mabel manages to remind the jury that her stepfather was already “a sick man” at the time of his death), and the joining of her emotional state to the film’s social message, most notably when Mabel argues that a guilty verdict would prove “there’s no hope for people like us”. But what Mabel says is of less importance than (as per Wallis’ memo) the emotional impact it must be seen to have upon her and the jury. Mabel’s increasingly emotional testimony, conveyed largely in close-up, is interspersed with reaction shots of the jury. This is not in itself an unusual choice, but the fact that these reaction shots actually convey the emotional responses of jurors is a modification of the representational strategies that typically deny the jury any individualising

²²³ Bob Herzberg, *The Left Side of the Screen*, p. 85.

presence.²²⁴ The manner in which the film attempts to convince the spectator that the jury would reach a not guilty verdict is to show them being convinced by Mabel's testimony. This leads to the presence in reaction shots of such figures as the female juror who is visibly moved by Mabel's appeal and leans forward in what could be viewed as an impotent but empathetic gesture (Figs. 37-38).



Figs. 37 (top) and 38 (bottom)

The development of the sequence over the course of the three final speakers then, can I think be most clearly distinguished through how the jury is represented. During Joe's outburst, the jury are distant, inscrutable. This is in keeping with Joe's anger at a society from which he feels rejected and which, at this moment, the jury represents. During the attorney's speech, the jury's presence is constantly alluded to, but they are not seen. This is because his speech is the one most specifically

²²⁴ See Chapter One, pp. 72-73.

designed to convey the film's social message, and is thus addressed as much at the filmic spectator as the diegetic jury. Finally, Mabel's testimony must demonstrate the jury's emotional engagement in order to elicit the 'convincing' resolution and counter the earlier critiques of the jury system and thus American society made by Joe. It is not only the jury whom Mabel convinces here; reaction shots of Joe, finally concerned and engaged with the witness box as he looks up at the off-screen Mabel (see Fig. 40), also gesture towards their post-verdict reconciliation.



Figs. 39 (top.) and 40 (bottom)

Thus the climactic courtroom sequence of *Dust Me My Destiny* allows the film to articulate and resolve its social problem and restore faith in the network of American social institutions (represented by the court) by the time the "not guilty" verdict is read out. The final shots of the sequence emphasise the values of trust and community (in contrast to Joe's earlier, isolating cynicism) by including the surrogate family that the couple have accrued (Figs 41-42). This ending drastically

differs from one proposed by the film's credited screenwriter Robert Rossen, who intended for Joe and Mabel to be shot to death at the film's end.²²⁵ However, the recent box office failure of *You Only Live Once* (1937, Dir: Fritz Lang), which contained a similarly tragic ending for its central couple, necessitated a rewrite.²²⁶ As opposed to the tragic ending originally considered, the existing courtroom conclusion is positive to the extent that even the convention of the photographer's camera appearing within the frame (Figs. 41-42) does not convey press intrusion into private matters (the conventional meaning), but simply the capturing of a celebratory moment.²²⁷ The sudden turnaround of the system that the not guilty verdict represents correlates with Campbell's configuration of the social problem film as presenting a system that is 'flexible and susceptible to amelioration'.²²⁸ The precariousness of this flexibility (which had not been evidenced earlier in the narrative) is challenged by the earlier depiction of a localised court, and which has been achieved only through extensive emotional appeal situated in opposition to the structures of man-made law, is overshadowed by the utopianism of its post-verdict moments. Mabel and Joe are reunited, their guardians Nick and Mike are present, and the trial system, through its outcome, can be said to work in the interests of justice.

²²⁵ Herzberg, *The Left Side of the Screen*, p. 86.

²²⁶ See Herzberg, *The Left Side of the Screen*, p. 86.

²²⁷ This is in keeping with the changing treatment of photography over the course of the film. In order to demonstrate the shift from a life lived in fear of surveillance and detection to one with nothing to hide, Joe sheds his fear of being photographed. Similarly, it is his own photography that provides him the career opportunity of working for Mike.

²²⁸ Russell Campbell, 'The ideology of the social consciousness movie', p. 60.



Figs. 41 (top) and 42 (bottom)

Thus, the systemic social issues which *Dust Be My Destiny* deals with are ultimately resolved by a trial proceeding that works in Joe and Mabel's favour. However, the neatness of the climactic moments and the not guilty verdict are countered by Joe's prior speech condemning the society that mistrusts and neglects him, the precariousness of the happy ending, and the film's earlier trial sequence in which the law was presided over by a prejudiced justice of the peace. The overtness of the emotional appeals introduced into the sequence situate the just outcome as the result more of structures of emotional identification than of the trial process, thus affirming to some extent claims that it is personal rather than social problems

that are treated by the social problem film. The treatment of the courtroom(s) in *Dust Be My Destiny* embodies the tensions that govern the social problem film. The trial both allows for the articulation of the central social problems, but also provides the solution to those problems, paradoxically affirming in its final moments the systems of American democracy, law and society through extensive recourse to the emotional and the individual.

“...to be tried because she is a Negro”: The Problem Trial in *Pinky*

Pinky has been written about by many critics, with much of the literature on the film seeing its climactic trial sequence as representative of the film’s ideologically problematic depiction of race relations. Yet, despite its acknowledged prominence to the narrative and didacticism of *Pinky*, there have been few close analyses of this sequence as a locus of the film’s contradictions, complexities, and its negotiation of competing influences in representing – and treating – the social problem of racial prejudice.

Pinky shares with *Dust be my Destiny* a focus on a social problem contemporaneous to the film’s production date, through the depiction of the prejudice experienced by the protagonist, a fundamentally decent individual whose mistreatment is seen to arise solely from these prejudices.²²⁹ Both films also proffer

²²⁹ *Pinky* concerns Patricia ‘Pinky’ Johnson (Jeanne Crain). The film begins with her returning home to an unnamed part of the American South following several years of nursing training in the North. She is greeted by her grandmother Dicey (Ethel Waters), a washerwoman who soon realises that the light-skinned ‘Pinky’ has been passing for white while in the North – not only this, but she has acquired a white boyfriend Tom (William Lundigan), himself unaware of her racial heritage. Back in her childhood surroundings, Pinky encounters several instances of overt racial prejudice, each pivoted around an initial misrecognition of her as a white woman followed by assault and mistreatment when her actual racial identity is revealed. In one such instance, Pinky is arrested by the town’s racist sheriff Anderson (Arthur Hunnicut). Appalled by the racism she encounters, Pinky

the aid of benevolent emblems of liberalism, including the compassionate figures within the court system, as part of the solution to the problem. However, the social problem picture's legibility as a prestigious and marketable product had increased in the intervening decade between the release dates of *Dust Be My Destiny* and *Pinky*. The critical and commercial successes of such films as *The Lost Weekend* (Dir: Billy Wilder, 1945), *The Best Years of our Lives* (Dir: William Wyler, 1946), *The Snake Pit* (Dir: Anatole Litvak, 1948), and two previous Darryl F. Zanuck productions, *The Grapes of Wrath* and *Gentlemen's Agreement* (Dir: Elia Kazan, 1947) places *Pinky* within a specific cycle of 1940s 'A' pictures that made contemporary social problems their subject matter and which remain the films that are most often associated with the term social problem film.²³⁰ Like these other films, *Pinky* was a commercial success and received a (reservedly) positive critical response, earning three Academy Award nominations.²³¹ However, the film was also subject to controversy and divisive response.

plans to return North, but is convinced by Dicey to stay and nurse Em (Ethel Barrymore), a dying member of the slave-era aristocracy. Initially reluctant to nurse what she assumes to be another prejudicial white Southerner, Pinky eventually forms a bond with the cantankerous but good-hearted Em. Meanwhile, Tom visits Pinky, and decides to stand by her when she admits she is not white. Em dies, leaving her inheritance – including her manor house – to Pinky. The will is contested by Em's greedy relatives, the Woolleys, but rather than escaping to the North and letting the Woolleys assume Em's inheritance by default, Pinky decides to stay for the trial, despite the overwhelming hostility of the community. Pinky convinces Em's friend Judge Walker (Basil Ruysdael) to take her case, which is eventually ruled in Pinky's favour. Having not obtained the satisfaction she had assumed she would upon winning the case, Pinky ultimately recognises what Em would have wished for her to do with the inheritance. Pinky refuses to leave for the North with Tom and instead stays in the community, transforming Em's home into 'Miss Em's Clinic and Nursery School', a clinic specifically for the black community.

²³⁰ These films, in particular *Gentlemen's Agreement* and *Pinky*, are referred to by Cindy Patton (*Anatomy of a Problem Film*, 2007) as the first in the social problem film cycle.

²³¹ The nominations were for Best Actress in a Leading Role (Jeanne Crain) and Best Actress in a Supporting Role (Ethel Waters and Ethel Barrymore). Although this pales in comparison to the number of Academy Award nominations and wins granted to previous films in the 1940s social problem cycle, it still demonstrates a level of industry support towards the film (and made Waters only the second African-American to be nominated for an Academy Award).

Pinky was under particular scrutiny as ‘the first liberal A-movie about racism in America’,²³² typically viewed as part of a cycle of films released in 1949 that addressed the topic of racial prejudice, alongside *Intruder in the Dust* (1949, Dir: Clarence Brown), *Home of the Brave* (1949, Dir: Mark Robson) and *Lost Boundaries* (1949, Dir: Alfred L. Werker).²³³ Considerable pre-production wrangling over the source material’s adaptation took place in order to produce a script that would satisfy both the mass (white) audience and the African-American audience.²³⁴ This is detailed by Cripps, who notes the debates between the NAACP and producer Darryl F. Zanuck over the title character’s ‘lack of militism’, evidenced by the former in her recourse to the court system. Cripps states that ‘Zanuck persisted, reminding them that the conscience-liberalism that had risen during the war had been an organically white-angled phenomenon and that whites were the target of his *Pinky*’.²³⁵ This comment makes clear both that *Pinky* was a film about black experience made for a predominantly white audience, and that this meant that ideologically, the film had to make certain choices in order to accommodate this mass white audience.

These negotiations are most immediately evident to the modern viewer in the casting of Jeanne Crain, a white actress, in the role of Pinky. The purpose of casting a known white actress in the role as a way of inviting the white audience to engage more rigorously with the film’s social message is discussed by Jones (1981)

²³² Tomáš Popíšíl, ‘The Liberal Message Films of the Late 1940s and the Position of African-Americans’, *Brno Studies in English* 30:10 (2004), p. 182.

²³³ See Jones, 1981; Kydd, 2000; Pospíšil, 2004.

²³⁴ The source material in question is Cid Ricketts Sumner’s novel *Quality* (1946). Another recent “passing” novel, *Kingsblood Royal*, written by Sinclair Lewis and published in 1947, provides an interesting contrast to the source material of *Pinky*; despite its similar subject matter of U.S. racial discrimination and “passing,” *Kingsblood Royal* was more satirical in tone and too controversial to be considered adaptable for film.

²³⁵ Thomas Cripps, *Making Movies Black : The Hollywood Message Movie from World War II to the Civil Rights Era* (New York ; Oxford : Oxford University Press, c1993), p. 234.

and Kydd (2000), and relates to the emotional miscegenation outlined by Patton; for this audience to see the prejudicial treatment of the black community inflicted upon a white female body paradoxically strengthened their engagement with the race problem, an outcome desired regardless of the problematic connotations of its underlying structures of identification.²³⁶

The film's negotiations are also evidenced in the film's overarching narrative development, critiqued by both contemporaneous reviewers and in subsequent criticism of the film.²³⁷ For example, Campbell argues that:

The ideology of *Pinky* is that of separate development; and the dependence of black on white is implicit in the film's final scene of *Pinky* bustling about caring for "her people" in the house left to her by the generous nature of a white woman and guaranteed to her by the firm commitment to justice of a white court.²³⁸

Campbell's perspective on the implications raised by the film's resolution is shared by Jones and Kydd. All, to varying degrees, see the inclusion and function of the trial in the narrative as affirming separatist and paternalistic solutions; as Kydd succinctly summarises the issue, 'Inheritance is the strategy by which racism can be addressed, but this means that control remains with the white community; the legal system maintains the ability to define and position others'.²³⁹ We can also begin to think here about issues of censorship. Filmmakers working within the studio system would have been aware of the scrutiny with which the censors (at both national and localised levels) would be approaching a film dealing in this type of sensitive

²³⁶ It should be noted that similar casting practices were not unknown in studio-era Hollywood, and were evident in other films that presented messages of racial tolerance, understanding, and equality. One contemporaneous example is the casting of white actors Jeff Chandler and Debra Paget in Native American roles in the following year's *Broken Arrow* (Dir: Delmer Daves, 1950).

²³⁷ For an overview of the contemporary critical response, see Cripps, p. 238.

²³⁸ Campbell, 'The Ideology of the Social Consciousness Movie', p. 67.

²³⁹ Elspeth Kydd, "'The Ineffaceable Curse of Cain': Racial Marking and Embodiment in *Pinky*" *Camera Obscura* 15:1 (2000), p. 111.

subject matter. An 'A' picture such as *Pinky* would have to negotiate its social didacticism and the tenets of various censorship guidelines. For example, the casting of a white actress also made the issue of miscegenation (forbidden by the PCA) more palatable. Thus the series of narrative strategies made by *Pinky* can be considered partly as choices designed to ward off censorship issues, the trial and its outcome being of particular relevance.²⁴⁰

In order to begin thinking about the debates over the court's function as a site of resolution, however, the other narrative strategies and imperatives of the film should first be considered. *Pinky* positions itself as a film about personal identity. The focus on a female protagonist makes it a film about problems of gender as well as race and class. The film has been considered alongside the "mulatta" narratives of 19th Century American literature, including *Uncle Tom's Cabin* (1852 novel by Harriet Beecher Stowe), *Clotel; or, the President's Daughter* (1853 novel by William Wells Brown) and the short stories of Lydia Maria Child,²⁴¹ a context which can give us some insight into how *Pinky* situates itself.²⁴² Doane argues that the

tragic mulatta is "tragic" because she is usually delineated as caught between two cultures and her dilemma is seen as irresolvable in any satisfactory way [...] The fact that these are dramas of recognition and misrecognition and, as one critic points out, scenes of revelation are crucial to the genre, indicates an affinity with the structure of melodrama.²⁴³

²⁴⁰ These issues of *Pinky's* navigation of censorship issues are considered at length in Margaret T. McGehee, 'Disturbing the Peace: *Lost Boundaries*, *Pinky*, and Censorship in Atlanta, Georgia, 1949-1952' *Cinema Journal*, 46:1 (Autumn, 2006), pp. 23-51.

²⁴¹ For example, *Slavery's Peasant Homes* (1843)

²⁴² The most famous predecessor of the tragic mulatta in the Hollywood cinema is the character of Peola (played by Fredi Washington) in *Imitation of Life* (Dir: John M. Stahl, 1934), itself an adaptation of a novel by Fannie Hurst.

²⁴³ Mary Ann Doane, *Femmes Fatales: Feminism, Film Theory, Psychoanalysis* (New York: Routledge, 1991), pp. 233-4.

Pinky draws upon the melodramatic treatment of the mulatta to some degree, dealing initially with the pains of recognition and misrecognition (of both oneself and by others), and, in its depiction of an individual's struggle to find a place within a hierarchical social world, clearly working in melodramatic terrain. The opening scene establishes that North/South and white/black form the terms of the two cultures between which she is torn. Pinky's sense of not belonging is recurrently figured also through the treatment of space in the film. Tracking and long shots of Pinky navigating her way through both her own neighbourhood and Miss Em's "slave built, slave run" house invite us to register the discomfort she feels in her surroundings, conveying her feelings of entrapment and exclusion.

Pinky only seems at peace when she is alone in nature, outside of the film's social world. Whenever she is seen within the community, she is subject to the scrutinizing gaze of others, too visibly white to be at home within the black part of town, and too known as black for a white middle-class way of life to be attainable. Another effect of the aforementioned tracking shots is that they also allow for the inclusion of other individuals, watching and reacting to Pinky, within the frame. The first two instances of overt racial prejudice depicted in the film revolve around an initial misrecognition that conveys the differing treatments Pinky encounters when recognised as white then black, and the romantic subplot also pivots around the irresolvable tensions surrounding her racial identity. Thus we see how much of the film, in line with the conventions of the melodramatic mulatta narrative, foregrounds the difficulties of Pinky's situation, and aligns its structures of identification with Pinky's experiences of racial prejudice, asserting Patton's argument of the role of melodramatic emotional identification structures to the social problem film's didacticism.

However, the film also diverges from the conventions and structures of melodrama in ways that make evident the trial sequence's primary allegiance to the structures of the social problem film. The 'scenes of revelation' that Doane deems crucial to melodrama are notably absent from the trial, and the motif of Pinky-as-spectacle-to-others, which could easily be indulged by the trial form, is downplayed. This is telling, especially in relation to the case studies of my following chapter, which will demonstrate the centrality of (mis)recognition and revelation to what I term the melodramatic mode of trial depiction. Similarly, the outcome of the trial ultimately posits Pinky as a triumphant rather than tragic figure, suggesting that the mulatta's situation is, in this instance, resolvable. Here we can recall Maland's assertion that the term 'social problem' itself implies a solution. Yet, one advantage of the melodramatic form, that its structures of identification sustain a high level of emotional engagement with the victimised protagonist, is notably absent from the trial scene, which is about Pinky, but keeps her largely silent. I argue that this decision, which I will discuss in more detail shortly, downplays the sense of the trial's outcome as a personal triumph.

It is already evident that the trial is not the sole site of narrative resolution and closure. Most discussion of *Pinky* pays more attention to the ideological implications of the film's final scene, which depicts our heroine running the African-American clinic from the home she has inherited from Em. Campbell contrasts what he argues as the proposal made by *Gentlemen's Agreement* of the 'dissolution of Jewish identity' as the solution to anti-Semitism to *Pinky's* solution of 'black pride'.²⁴⁴ He finds this model of black pride no less problematic, however, arguing that the film proffers a paternalistic and conservative 'implication [...] that

²⁴⁴ Campbell, 'Ideology of the Social Consciousness Film', p. 66.

blacks should not entertain the ambition of moving outside their ghettos, of aspiring to a white middle-class way of life'.²⁴⁵ It is worth considering how the film's earlier strategies lead it to this conclusion. Throughout the earlier narrative, the film's discourse around race posits racial background as integral to one's identity, recurrently referring to the importance of "place" and criticising Pinky's "pretending". Pinky's anger at what she sees as racial discrimination is, on at least three separate occasions within the diegesis, made to seem unreasonable (she herself is seen to misrecognise a racially-motivated element to her treatment more than once), and her "passing" rendered unacceptable through recourse to notions of "denying oneself", "pretending" and other terms used within the dialogue to ultimately affirm the black pride/separatist solution. The terms of this debate are thus placed on an individual level, often situating the problem with Pinky herself. This evades any critique of the systems and structures that, to recall Kydd, 'define and position' based on race, instead invoking contradictory messages of race as, on the one hand, being of no importance to one's identity (thus indulging, to some degree, in the 'dissolution' of identity Campbell identifies in *Gentlemen's Agreement*) and, on the other, of being central to knowing one's 'place' (which, the film finally suggests, is amongst your own race).²⁴⁶ The film's own contradictory

²⁴⁵ Ibid, p. 67.

²⁴⁶ This contradiction is most notably evidenced in consecutive encounters Pinky has in the same scene, firstly with her grandmother, and secondly with Dr. Canady (Kennedy Washington), a young African-American doctor who studied in the North but resides and practices in the Southern community. In the first instance, Pinky's complaint to Dicey that Em "means to put me in my place and keep me there, just as she's kept you all these years" is countered by Dicey's "when folks is real friends, they ain't no such thing as place". However, only minutes later, Canady tells Pinky, when discussing his return to the South to work after completing medical school, that he "felt that my place was here". Two contrasting notions of 'place' are invoked: the first, a socio-culturally constructed image of the black individual's place, undermined in order to absolve certain white characters (and, by extension, the intended liberal white audience) of racism; the second, figured more abstractly (a 'feeling' of place), but still most likely governed by socio-cultural factors, that is used to affirm the essential rightness of remaining within one's 'ghettos'.

constructions of race demonstrate the influence of competing ideologies, which are displayed in my analysis of the trial sequence.

With these contexts in place, the specificities of the trial sequence can be addressed. It is firstly worth noting that the case on trial is a civil action. The sequence does largely employ the conventions of representing the criminal proceeding, presenting competing narratives in a court setting, and structuring its development around a set of procedural elements that include opening statements, witness testimonies, and a final verdict. Nevertheless, the lack of an explicitly criminal component to the drama lessens the likelihood of the heightened emotion of the climactic trial of *Dust be My Destiny*. This trial is not a matter of life and death (at least not explicitly), but of issues of inheritance that are made to reflect the broader issues of race within the community. The relatively subdued dramatics of the scene reflects the film's cautiousness in endorsing the kind of 'militism' that the NAACP believed the film lacked.²⁴⁷ Change is enacted through recourse to the system, which is shown to operate relatively smoothly. However, there are enough ambivalences and implications rendered throughout the sequence to ensure that the court system is not depicted as the guarantor of resolution to the same extent as *Dust Be My Destiny*.

This leads to the other important diegetic context of the sequence, which is the broader milieu of the setting. *Pinky* takes place in the American South, and its court is depicted as a specifically Southern courtroom. This has a bearing on audience expectations and the representation of the court, emerging largely from the courtroom's dual resonances, existing in tension with one another, as both an

²⁴⁷ See Cripps, *Making Movies Black*, p. 234.

impartial site of justice and a public arena likely to bear the influence of the local community. It also relates to the aforementioned issues of the civil case, as the monetary dispute at the heart of the case is given an added inflection within the context of the mid-20th century American South, typically depicted as impoverished.

The community's influence within the court creates the main source of tension in the sequence. The specific nuance offered from having no jury comes into play here; Judge Shoreham (Raymond Greenleaf) is the only person counsel needs to appeal to, and so the rest of the spectatorship can take on a more aggressively combatant function. The implication throughout is that a jury made up of members of this community would undoubtedly side with Melba Woolley (Evelyn Varden) and against Patricia Johnson (that is, Pinky) due to racial prejudice. This anticipates the racially motivated outcome of the trial depicted in *To Kill a Mockingbird* and again gestures toward the intended audience of the film, the white liberal North American audience populated in urban, educated areas above the Mason-Dixon line, who would be less inclined to take offense at a depiction of U.S. white racism displaced on to another group within a different geographical region. The film thus exhibits the same delineation between its white characters that Pospíšil discusses in relation to *Intruder in the Dust*:

on the one hand there is the mob of anonymous racists; on the other hand there are members of the “enlightened” establishment. They are capable of transcending their previous prejudice (i.e. “facts” that can be blinding) and start treating everyone equally; while doing so they are willing to take considerable risks and confront the wrath of the fanatic white majority.²⁴⁸

²⁴⁸ Pospíšil, ‘The Liberal Message Films of the Late 1940s’, p. 182.

Pinky exists in a similar milieu, where the ‘enlightened’ white establishment (consisting of Em, and – with some reservation - Judges Shoreham and Walker) are far outnumbered by the ‘unenlightened’ community. The presence of this community alters the stakes of the trial scene, gesturing to a world that has never recovered from the Civil War by presenting a white mob that is as socially deprived as the African-American community, but which still sees itself as in allegiance with the white courts in a segregated environment that insists upon race as the central classifier of difference.

The film devotes considerable screen time to events that occur between the realisation that Em’s will is most likely to be contested and the trial itself. This portion of the narrative is crucial to establishing the full force of opposition Pinky faces within the community for taking the legal route, encapsulated by Dr. Joe’s comment when he informs Pinky of Em’s will: “I don’t know how the folks around here are gonna take this.” The motif of having Pinky subjected to an objectifying gaze by others is escalated in these scenes, exemplified by the moment in which Pinky checks the court notice of her case while silently observed by grinning locals. The trial becomes a litmus test for the other characters; the reluctance even of Judge Walker to get involved demonstrates the sheer oppositional force Pinky faces in deciding to go ahead with the trial – even the ‘enlightened’ need to be convinced. The other major emphasis of the pre-trial segment of the narrative is the steadfastness of Pinky’s resolve to stay on for the trial, despite the protestations of the majority of the other important characters, black and white (Dicey, Jake [Frederick O’Neal], Tom). One emphatically situated reason for this is Pinky’s belief in justice, which in turn feeds into the film’s affirmation of the judicial process. Pinky is in alignment with the law regardless of the potential outcome of

the case, and elsewhere, she notes that she wants to go to court because she wants the Woolleys' attempts to take what is rightfully hers to occur "right out in the open". In a sense, Pinky wants to press on with the trial because, not in spite of, the public scrutiny involved. Despite her fundamental knowledge that she is right by the law, these scenes ultimately serve to create the expectation that that the courtroom will be a largely hostile environment, one which will bear the mark of the racist community quite evidently. It is a site that will, in complex combinations, address, deflect and reflect the conditions of systemic racism.

The Southern-ness of the court is immediately evident from an establishing long shot of the courtroom, with the sheer number of hand fans evident within the frame conveying the literally and figuratively heated environment. This establishing shot depicts the opening statement of Melba Wooley's attorney Mr. Stanley (Dan Riss), which continues over a series of shots of key characters including Pinky, Tom and Dicey. These initial moments set up our awareness of both the courtroom space and the absorption of racial prejudices into the body of the trial. In the first shot, Stanley refers to "the defendant, Pinky Johnson – colored," placing an emphasis on the final word, followed with what is posited as a deliberate pause as he looks over at her. Several shots later, the medium-long shot composition frames Stanley in the foreground as he presents the case against the defendant (Fig. 43). A camera pan follows Stanley's movement over to the plaintiff's desk, and his subsequent emphatic mention of "reliable witnesses" as he nods respectfully to his client, Melba, now in frame, provides contrast to the prior reference to the "colored" defendant and the vicious destruction of her character (Fig. 44). This conveys how the case against Pinky is rooted in assumptions regarding racial difference. The insinuations made by Stanley also serve to imbue this character

with the negative characteristics of the lawyer character, but in a way that makes Judges Walker and Shoreham seem nobler in comparison. Thus the negative depiction of one lawyer paradoxically reaffirms the idea of law as the correct form for achieving justice, with the characterisations corresponding to the representational paradigms for the defence and prosecuting lawyers I noted in the previous chapter.²⁴⁹



Figs. 43 (top) and 44 (bottom)

This opening also establishes the expressive depth of staging throughout the sequence, which allows for the inclusion of multiple viewpoints within one frame. The majority of the sequence's long shots view the courtroom from the space occupied by the judge, framing in some combination both sets of lawyers and their clients, and the gallery. The depth of field utilised throughout the sequence, in

²⁴⁹ See pages 73-75.

combination with the staging, often balances viewer attention between individuals in the fore- mid- and backgrounds of the frame. One specific example, which exemplifies this more democratic staging, is the consistent inclusion of Aunt Dicey in the frame behind Pinky, contrasting the older woman's melancholic withdrawal from the action of the trial with Pinky's investment. Thus, although the film's didacticism (which I will detail further shortly), in keeping with the conventions of the social problem film, is undeniable, our response is not guided as bluntly as it is through the tighter framings and close-ups of *Dust be My Destiny*.

Judge Walker's opening statement follows Stanley's, and the commotion that accompanies his action of standing to address Judge Shoreham (audible murmurs from the spectatorship, followed by the familiar banging of the judge's gavel) demonstrates the extent of the community's oppositional stance towards Pinky and the problem she represents. Walker's statement verbalises the case's grounding in racial prejudice and allows the social problem film to directly incorporate, via the mouthpiece of the legal professional, its didactic message into the diegesis. Walker argues that "the counsel for the plaintiff has made it perfectly clear that my client, in effect, is to be tried because she is a Negro." On this there is a telling cut to the spectatorship, with Sheriff Anderson (Arthur Hunnicut), the emblem of local, racist law enforcement, in the foreground of the shot. As Walker continues "and because a Negro cannot be permitted to inherit property", there is a cut to Dicey, framed with the spectators in the background. Dicey is unresponsive to the comment and to the subsequent murmuring it inspires from the gallery (I will return to the implications of her withdrawn demeanour when she appears on the stand later in the sequence). Walker's statement continues over a series of

shot/reverse shot edits of Judges Shoreham and Walker, and I will here transcribe the remainder of the statement in full:

Your Honor, this is a small country town. We've always thought that what happened here was our own private concern. But that is no longer true. Just as it is no longer true that our country as a whole can exist entirely to itself. What is done in our courts in cases such as this become a matter of moment in the eyes of the world. Let us examine our conscience. Let us look into our attitude and our tradition. Let us take care lest it be said of us that here, there is neither law nor justice.

Walker's statement makes clear the broader project of *Pinky* to deliver a legible message to its audience. This message parallels that of *Dust Be My Destiny* in its explicit broadening of the social issue at hand to include the cinematic spectator through the use of third person pronouns, as well as the appeal to the ideals fostered by American ideology ("our attitude and tradition"), an ideal that Walker's speech both situates as attainable and which is made to incorporate a forward-thinking policy on race. The main difference is the subsequent broadening of the issues onto an international scale, a reflection perhaps of the post-war production date, which recalls Patton's identification of a post-WWII social problem address producing an image of 'national identity that [...] transcends nation to speak of humanity and does so in the context of a community of nations'.²⁵⁰

However, despite the similarity of the message to that evidenced in the speeches of *Dust Be My Destiny*, the representational strategies employed during Walker's statement results in a comparatively subtle didacticism. The possibilities offered by the lack of a jury means that the sense of a direct address through the blurring of diegetic and film spectator is downplayed. The moment is limited to a

²⁵⁰ Cindy Patton, *Anatomy of a Problem Film*, p. 43.

series of shot/reverse shots of the two judges, with the potential diegetic audience of the gallery unaddressed, and the sense of direct address to the film spectator refuted through the staging. The judges are always looking at each other, not out at any broader audience. Nor is Ruysdael's delivery of Walker's speech grandiose or portentous. The relative restraint at work again belies the film's withdrawal from melodramatic structures of identification (based in emotion) and its care to avoid suggesting that the system represented by the courts need undergo any significant change in order for the problem of racism to be effectively addressed.

Following this, there is a moment in which the odds stacked against Pinky are amplified (correspondingly escalating the intensity of the audience's involvement in proceedings) when it is established that, Dr. Joe, the only witness for the defence, is absent from the courtroom. The sequence then progresses on to a series of witness testimonies, beginning with Sheriff Anderson, that convey the relationship of each character, figured through their social standing (and pivoted around race, class and gender distinctions), to the courtroom space. However, before looking at these witness testimonies, I would like to consider Pinky's aforementioned (relative) lack of visibility throughout the sequence.

At no point during the sequence does Pinky herself take to the stand, and her dialogue is restricted to asides made to Judge Walker. It is perhaps in this lack of visibility in the courtroom scene that the paternalism with which the trial material has been charged is most evident. Although my melodrama case studies will demonstrate how a deliberate silence on the part of the female can contain a challenge to the patriarchal structures of the court, *Pinky* does not critique the act of silencing its heroine in the courtroom. Instead, we watch a series of white male authority figures debate and finally cast judgment upon the issues the minority

figure represents, a troubling inflection of the socially conscious courtroom drama that anticipates similar acts of silencing and speaking for in several of the golden age trial films. Here, the matter of the female defendant gives a specific inflection, evident also in *Outrage* (Dir: Ida Lupino, 1950), a social problem film addressing the aftermath of a rape that also contains a climactic courtroom scene. The issues that the female's mistreatment brings to light are articulated, debated, and judged upon by the white male authority figures who retain control over the courtroom setting, while the dispossessed individual is effectively silenced.²⁵¹ In both cases this follows a pattern of development that has viewed the social problem through a consistent and intense emotional involvement with the female protagonist. The social problem model of representation seems to lean towards this transition through the climactic trials, which serve to realign the terms on which the problem subject is considered from (as befits Patton's argument) the domestic/female/emotional/personal to the public/political/masculine.

With this in mind, I return to the remainder of the sequence. The first shot of Anderson and Stanley presented during the former's testimony places Anderson mid-frame with his arms folded, and Stanley leaning back in the left of the frame with his arms rested up on the bench behind him (Fig. 45). Their combined body language conveys a shared arrogant attitude towards the trial and the matters at hand. The duo, as white, male figures with some measure of authority in the community, and in the face of an African-American adversary, display the privileged confidence that their perspectives will be accepted (their sense of the

²⁵¹ This is granted a particularly striking inflection in *Outrage* through the female protagonist's muteness, incurred from the trauma of the crime that has brought her to trial.

courtroom as an extension of their boy's club is augmented by the cigarette smoke that trails from Stanley's hand).



Fig. 45

The events that Anderson recalls as testimony (presumably as a way of revealing Pinky's "true" character) were also the first explicit example of racial prejudice depicted in the film.²⁵² Thus Anderson is automatically identified with the racist abuse of power, and the presentation of this incident as his testimony strengthens the film's own case that the issue on trial is rooted in racial prejudice. Over the course of one take and following the examination in which Anderson recaps these events (from his entirely biased perspective), Walker enters the frame to cross-examine Anderson. Walker's own proximity to the events of Anderson's testimony – it was he whom Pinky was taken to by the police – is unusual for the lawyer character, but integral to the implications of the sequence. Walker asks Anderson to clarify that no charges were brought against Pinky, to which Anderson responds "You generally always let them off with a good talking to like you give her. You know how it is. Why, you put them niggers in jail every time something

²⁵² The unlawful arrest of Pinky alongside two other African-Americans after the police initially mistook her for a white woman being harassed by the black couple.

like that happens-” before Walker interjects. The direction of Anderson’s comment in this moment, as he looks over ingratiatingly to the off-screen space occupied by the judge, conveys that this is an attitude he expects the entire community, including the legal representatives, to share. Similarly, the inclusion of Walker into his statement (‘*You* generally always let them off’) speaks to a presumed complicity. This moment is surprisingly complex in its implications surrounding power and race relations in the film’s social world. Although it is presented so that the audience will be shocked by Anderson’s comment and sympathise with Judge Walker’s interjection, there is a certain irony invoked when considering the latter’s proximity to and complicity in the events Anderson recalls and the attitude he adopted at the time. The text thus positions us to see the entire community at fault. The fact that Walker’s subsequent request for the testimony to be stricken is denied also presents the possibility of a bias on behalf of Judge Shoreham too (who, as per convention, and advantageously to the suspense of the sequence, is inscrutable at this point).

A dissolve transitions to the testimony given by Melba Woolley, another witness who recounts events depicted earlier in the film from a perspective that reveals her own biases. In this instance, Melba discusses the details of her visit with Em, and the actions or gestures which we earlier saw were Em’s way of coping with her insufferable relative (feigning “fits” and insisting Pinky stay in the room with them), are used by Melba as evidence of Pinky’s “undue influence” on the deceased. The audience can understand how the actions Melba describes could have been misinterpreted, and yet we are in no way asked to sympathise with or excuse her. Associated with the crumbling Southern aristocracy epitomised by Em’s manor house, Melba is positioned, in class terms, above the ‘unenlightened mob’, but this

modifies rather than lessens her form of racism. It is not the overt racism of a Sheriff Anderson, but a kind rooted in an ingrained sense of superiority inextricable from class boundaries, and expressed through assumption and insinuation.

Melba is characterised on the stand as both ridiculous and harmful. The former is conveyed through her consistent action of turning to face Stanley, as if in conversation, when answering his questions, to which he must repeatedly physically prompt her to face the judge. His guidance also threads into the suggestions of rehearsal evident during the examination. The performances convey the characters' own performativity on the stand, with Varden's Melba seen to be *playing* the role of the concerned relative (as she had in the earlier scene at Em's bedside, where instances of her true character were juxtaposed with a performed persona of Southern gentility), and Stanley playing the upstanding moral guardian. This is most clearly evidenced when Melba unconvincingly breaks down, mustering up tears as she states with an exaggeratedly performative flourish, "I'm just glad that Cousin Em was allowed to die a natural death in her bed." The reaction shot of Judge Shoreham depicts him half-obscuring his face with his fan, an ambiguously situated moment of disguised mockery. The depiction of Melba on the stand invites the audience's mockery also, once again distinguishing us (the white-liberal audience of Zanuck's intent) from the 'unenlightened' white character by inciting a feeling of superiority; her comic lack of self-awareness inspires a doubled detachment from the character.

Both the overtness of Melba's performativity and Judge Shoreham's reaction to it guides our own response to the character of Melba, whose true colours are made apparent during the cross-examination, when Varden strikes the same vicious tone that she had in the prior scene at the goods store (another of the film's

most emphatic depictions of racial prejudice). The switch in examiner corresponds to a change in Melba's tone and body language, in keeping with her characterisation as insincere. When Walker suggests that Em agreed with Pinky's suggestion to make a will (a point we know to be true, having seen the exchange in the earlier scene of Melba's visit), Melba retorts viciously "Were you there, Judge Walker or are you bein' primed by that girl over there?" This is another moment rich in racist implications: that Pinky/Patricia does not merit being referred to by name or even looked at directly (the inclusion of Pinky within the frame draws attention to this); that Pinky is manipulative and conniving; and that there is a sexual component to this manipulation, the older white male influenced by the seductive possibilities of the young African-American female. Walker subsequently asks Melba whether she "know[s] the penalty for perjury", to which Stanley jumps up to object. The objection is sustained, and a reaction shot of the spectatorship, all white, nearly all male, captures them erupting into applause. There is a cut to the spectatorship with Anderson, once again in the foreground of the shot, turning around to state out loud "Didn't I tell ya he's a good'un." Once again, the community is figured as a negative force. Their unruliness evacuates the notions of the courtroom as a site of impartiality to be accorded reverence. The unambiguously informal attachment to Stanley associates him with the 'unenlightened' mob to a far greater degree than the other legal professionals.

This display of white unity in opposition to black expression is juxtaposed with the following cut to a shot of Dicey on the stand. Dicey's defeatist attitude towards the outcome of the trial, expressed in an earlier scene in which she tries to get Pinky to default the will, arguing that white people always get what they want, in part explains her demeanour. Whereas Pinky is to be viewed as the emblem of a

forward-thinking African-American generation who uses the system for advancement, Dicey represents an older generation, complacent in their belief that the system will never work in favour of the minority group (of course, it is worth considering that the terms of this opposition never steps outside of the framework of said system). Just as Melba is a type based in traditional archetypes of the remnants of aristocratic Southern femininity, Dicey is typed as the emblem of an older generation of African-American womanhood: devoutly religious, uneducated, kind-hearted and proud, but subservient to the white ruling class. Both through the typing of the character, and in her role as the only African-American character to take to the stand, Dicey is figured through structures of gender, race and class as an outsider to the court process, and of all the characters, she has been seen to be the one most removed from the surrounding business of the trial. Her melancholic withdrawal anticipates the female defendants of my melodrama case studies, whose exclusion from the discourses of the legal system is emphasised.

Attitudes surrounding race are both critiqued and reinforced in the depiction of Dicey's testimony. Stanley's condescending and manipulative treatment of Dicey is evidenced in his emphasis upon the underlying Christian elements of courtroom rhetoric during her examination (and present during no one else's), warning her at one point "to tell the truth before God" and at another to "answer [...] the gospel truth." The tension of this portion of testimony resides in another stereotype grounded in intersecting assumptions surrounding race and class - the issue of illiteracy. Dicey was present during the signing of Em's will but would not have been able to comprehend the document itself, and as Pinky explains to Walker during Stanley's questioning of Dicey on this issue, Stanley "knows she can't read and she'll never admit it." The reliance on both of these tropes speaks to what

Pospíšil sees in the characterisation of the film's other major African-American characters as a 'flatness, sometimes verging on traditional racial caricatures' which 'indicates how difficult it was for the majority of filmmakers [...] to avoid such established clichés'.²⁵³ However, the recourse to these stereotypes in this instance also affords an opportunity for the film to display an awareness of the legal system's own shortcomings in dealing with minorities. The issue of illiteracy is fundamental to the awareness that Dicey is not equipped to deal with the mechanics of the trial system, just as the legal system does not accommodate individuals of Dicey's social standing. The expected public shaming inherent to the revelation of illiteracy is, however, evaded by Dicey's coy response "You know sir, as well as me, it ain't manners to read what ain't meant for you to read," which raises a gale of laughter from the spectators.

Patton views this moment as a particularly striking and radical one that 'smuggle[s]' into the film a racial sensibility suppressed elsewhere.²⁵⁴ Considering Dicey's illiteracy in relation to the character's relationship to 'white time' (as embodied by the written word's status as law), Patton argues that this 'crucial scene juxtaposes the Law's demand for literacy with a form of Black knowing that cannot be admitted into a court of law',²⁵⁵ revealing the biases in the structures of knowing and witnessing demanded by the (resolutely white) court, and the types of knowing and witnessing it neglects:

Dicey finally signifies on Mr. Stanley by playing two whites values against each other: the demand for Black illiteracy and the demand for Black respect for white property, *white space*. She wins, and the entire court knows it [...] In this moment of triumph she has produced a different phrase

²⁵³ Tomáš Popíšil, 'The Liberal Message Films of the Late 1940s', p. 184.

²⁵⁴ Patton, *Anatomy of a Problem Film*, p. 128.

²⁵⁵ Ibid., p. 135.

universe, one in which she is the rhetor, and she has forced the lawyer – usually the rhetor *par excellence* – to stand as a listener.²⁵⁶

Thus, in this brief moment, *Pinky* inverts the legal insider/outsider distinction and the translation metaphor outlined by Rosenberg.²⁵⁷ Dicey is able to use her illiteracy, hence her *exclusion* from the white order of knowing that underlies the structures of law, to force said law to occupy a position outside of her own forms of knowing, witnessing and (what Patton refers to as) ‘signifyin’’.²⁵⁸

However, Dicey’s statement here ushers a response from Stanley that reveals the performativity of his earlier gentleness, and his aggressively performed insistence that she admit that the will could “have been written at some other time, couldn’t it, couldn’t it?” as he waves his finger at her, his hairstyle inadvertently ruffled with the force of his gesturing, results in the desired response. Dicey meekly admits that there is a possibility that *Pinky* could have helped to write Em’s will, and the examination is ended. Dicey’s victory was decisive but brief, overturned by the force of white law’s power. Walker waives the subsequent cross-examination, signalling the return to Dicey’s treatment as unsuited to the courtroom setting. The character, depicted as principled and strong in previous scenes, is rendered weak, meek and largely passive in the courtroom, a commentary on the court’s reflection of hierarchical social structures, but is permitted a moment of triumph that acts as the sole allusion to the rigid, exclusively white, but ultimately restricted structures of knowing and communicating demanded by the court.

²⁵⁶ Ibid.

²⁵⁷ See Review of the Literature, pp. 35-38.

²⁵⁸ Ibid., p. 136

It is during Dicey's examination that the narrative thread of Dr. Joe's absence comes back into play, as it is revealed that the doctor will not be able to appear as a witness. The moment in which Stanley mockingly/facetiously recites Dr. Joe's note of absence to the courtroom, inciting more laughter from the spectatorship, is the final reminder of the community's aggressively arrogant attitude. The conviction that they have already won the case is evidenced in the ease with which they find humour in the trial. In the previous chapter I argued that the convention of gallery laughter is usually utilised nearer the opening stages of the trial scene in order to be muted as events escalate in seriousness. The decision to include laughter even at this point in the trial speaks to the specific nuances of *Pinky's* courtroom scene, pivoted around the adversarial nature of the spectatorship towards Pinky, and the assumed, unshakable authority of the unenlightened white population.

It is at this point that the sequence arrives at the verdict. The sequence has thus far conveyed the sheer weight of the odds stacked against Pinky and the force with which the community opposes her, consistently reasserting the basis of this opposition in racial prejudice. The relatively undramatic development of the trial – especially once it becomes clear that there will be no last-minute witnesses – together with the arrogance displayed by Stanley, Woolley and the communal mob that comprises the spectatorship, carries the suggestion that racial inequality and enforced powerlessness are the norm for this type of proceeding. With this in mind, consider the staging of the verdict. A series of long shots capture Walker and Stanley as they prepare for the reading. Walker already looks unhopeful, whereas Stanley busies himself fiddling with his tie as if readying himself for glory, and similarly thanks Judge Shoreham in advance several times over. The expectation

that the verdict will rule in favour of the Woolleys has only intensified over the course of the trial, and Judge Shoreham's preliminary comments in the build-up to his verdict ("There's no point in dragging this out", "I do not intend to defend the wisdom of this request") again speak to notions of the depressingly cut-and-dried nature of the case.

Thus, expectations are built so that Shoreham's declaration that the will is "good and valid" marks an abrupt reversal. However, the specific diegetic contexts of this trial offer a set of responses in reaction to the verdict that complicate the joyous union of law and community with which the convention of the verdict and its aftermath is often imbued in the Hollywood film (evidenced in *Dust Be My Destiny*). There is a cut to Pinky and Dicey just after Shoreham's declaration in which this complexity of response is evidenced in the contrast between Pinky's elated expression and Dicey's near-catatonic lack of acknowledgment. A cut to a long shot shows Judge Walker registering neither happiness nor relief, but retaining a grave expression, while the courtroom erupts into loud, unintelligible noise unlikely to be mistaken for cheers or applause.

The subsequent courtroom coda is enacted over the course of one extended take that immediately punctures any sense of victory. Pinky gets up from the desk, and pausing briefly in frightened hesitation as she looks over at the off-screen Melba and Stanley, approaches Judge Walker, thanking him. He replies:

"Well, Pinky, you won, you got the house and the land. And you got justice. But I doubt if any other interests of this community have been served."

This response is as startling as the verdict, and the manner in which Ruysdael performs it suggests the intentionality of this affect, as the gentle intonation of the

first two lines jars with a sudden severity of tone in the third. Our shock is shared by Pinky, whose eyes follow Walker as he leaves the frame. The composition now frames her, alone, surrounded by the noise of the crowd. She turns around, and facing away from the static camera, walks slowly over to the spectators. The camera then begins to track alongside Pinky as Dicey trails behind her. The pair walk past as the sound and movement of the crowd dwindles to a silent, collective gaze upon the two women. A series of framings show the women surrounded by a hostile but stationary crowd, until finally Tom approaches and they leave the courtroom together.

The content of this extended take conveys the immediate ramifications of Pinky's now ambiguously situated victory. Walker's comments are accompanied by an evacuation of the frame so that Pinky's isolation is made apparent, and the subsequent prolonged exit through the crowd conveys that the racist mentality of the community has not altered, and will most likely be exacerbated by the trial's outcome. Kydd argues that 'Pinky's racialization is associated not only with sexualization but with an intense and potentially violent scrutinizing gaze' exemplified by this moment at the end of the trial.²⁵⁹ I would posit that the sexualisation and the scrutinising gaze are held in tension with one another rather than opposed. The conventions of narratives about the American South dictate that racially-motivated physical violence be inflicted upon male African-American characters, and sexual violence inflicted upon females; sexualisation and violence

²⁵⁹ Kydd, "The Ineffaceable Curse of Cain", p. 105.

are thus twin implications of the intimidation of Pinky, and the scene concludes on a moment of disquiet that sharply contrasts with *Dust be my Destiny*.²⁶⁰

How do we make sense of the many ambivalent notes contained within this trial sequence, which previous discussions have disregarded? On the one hand, the unrelenting hostility of the community towards Pinky contrasts with the rightness of the court system, which achieves justice in spite of the oppressively prejudicial atmosphere. On the other hand, the scene ends with a series of startling reminders that the verdict will affect no broader positive change to the community, and in fact suggests a greater negative response in retaliation. Overall, the court scene of *Pinky* displays a more complex message than the film has been given credit for, one that places faith in the court system but which also addresses its inability to resolve all of the broader socio-cultural issues that congregate around its adversarial form. The abandonment of Walker, who immediately sheds his professional guise upon the

²⁶⁰ It is up to the concluding scenes that follow the trial to tidy up, for the benefits of the three interrelated frameworks of narrative, ideology and industry (i.e. the Production Code), some of the matters left unresolved by the trial scene. Thus, Pinky and Tom are depicted parting ways upon Tom's insistence on moving North (a development which navigates the Code ban on miscegenation) and Pinky subsequently turns Em's home into a school and clinic for the African-American community, cementing her commitment to what the film views finally as "her" community and "her" people. Similar narrative developments were being used in later years to resolve the censor-baiting and ideologically disquieting issues of miscegenation in the Hollywood cinema. *Kings Go Forth* (Dir: Delmer Daves, 1958) ends not with the Caucasian male and biracial female couple entering into a romantic relationship, but with the former, Sam (Frank Sinatra), visiting the latter, Monique (played, in another instance of race problem casting practices, by Natalie Wood), at the school in France in which she teaches children orphaned by the war (much of the action is set during the final years of WWII). Their initial conversation contains several instances of dialogue that allude to, but never explicitly address, the problems of race and romance (he refers to her as "friend": on being asked if she is happy, she responds with advice given to her mother that alludes to the problem of her race and the issue of personal responsibility – "Everyone in the world has some kind of a burden. But it is not the burden that's important. It's how you carry it"). Presenting Sam to her class, Monique then has her pupils sing a song for the visiting American soldier. The looks exchanged between the two as the children sing suggests the possibility of a romantic reconciliation. Thus the final scene negotiates a separatism arguably demanded by the Code and its ideological imperatives (with Monique's commitment to her community signalled, in numerous ways, by her teaching status) and the ambiguous suggestion of romance reflective of a loosening, not dematerialisation, of these demands (but in line with one of the major narrative conventions of the classical Hollywood cinema, the heterosexual romance).

trial's end, attests to this. There is also a moment of radicalism glimpsed in Dicey's brief triumph that allows the film to speak to the court's own racially segregated structures of knowing and communicating. Law and society do not in this instance converge in an agreed judgment and understanding, and both the social problem and the personal problem (to be resolved outside of the courtroom) are ambivalently treated.

3. Laws of Desire: The Courtroom Sequence in the Woman's Melodrama

In this chapter I wish to consider the melodrama, specifically the female-centred or woman's melodrama, in terms of its representations of the courtroom trial. I will employ two films as my main case studies: *Peyton Place* and *Madame X*. These films parallel my previous case studies in that their courtroom sequences are climactic narrative events that feature major characters as defendants in a trial. The main terms of difference between the diegetic scenarios of these case studies and those I examined previously are that firstly, the defendant character is female, and secondly (in contrast to the previous female defendant in *Pinky*) they have committed the crimes of which they are accused. These case studies enable a consideration of representations of women in the trial sequence more broadly within the Hollywood cinema, but also allow an examination of the specific inflections provided by the melodrama, in which the female point-of-view is primary and, in both films, at cross-purposes to the court.

It is important to clarify what I mean when I refer to melodrama in the context of this chapter. Conceptualisations of film melodrama range from positioning it as a discrete genre to identifying melodrama as a modality that governs the representational structures of all mainstream narrative cinema (to give one example, my previous chapter considered Cindy Patton's invocation of melodrama as a mode crucial to the social problem film's production of emotional identification with its protagonists). My primary area of concern in this chapter lies with two overlapping subgenres of American film melodrama, the family melodrama and the woman's melodrama, although it should be noted that the

generic status of both is in itself a source of debate within the field. I will begin by mapping out how these two subgenres have been approached by scholars, and how I relate the conventions and meanings identified in them to the conventions of trial representation I have already considered. This will build to an examination of existing material that looks at figurations of law, justice and the trial in the melodrama, before applying my findings to my two case studies.

Conceptualisations of Film Melodrama (1): The Family Melodrama

The family melodrama's generic status seemed firmly established by the time it was granted a chapter in Thomas Schatz's book *Hollywood Genres* (1981). Mercer and Shingler (2004) provide a basic model of the family melodrama genre that summarises the features outlined by the collective previous work. In this model, the genre's narrative framework concerns the middle-class family and, although frequently depicting economic and social issues, places its emphasis on 'personal emotional traumas'.²⁶¹ The family melodrama encourages a high level of identification with a victimised protagonist, and dramatizes Freudian repression through depictions of such symptoms as 'hysteria, oedipal conflict, impotence and alcoholism'.²⁶² Finally, the use of 'spectacle, dramatic action and suspense' are viewed as particularly important to the family melodrama, with 'bold and effective climaxes' employed and the emotional action heightened and punctuated by the use of music. Although any generic model of this type can be complicated with relative ease, this basic model is broad enough to include a significant number of films

²⁶¹ John Mercer and Martin Shingler, *Melodrama: genre, style, sensibility* (London; New York: Wallflower, 2004), p. 12.

²⁶² *Ibid.*, p. 13.

while also allowing me to consider the specificities of my case studies as films indebted, but not bound to, a monolithic conception of the genre.

One early conceptualisation of the family melodrama suggests the possibilities a trial scene presents the genre. Thomas Elsaesser's influential essay 'Tales of Sound and Fury: Observations on the Family Melodrama' considers the Hollywood family melodramas produced between 1940 and 1963. He discusses several facets of this genre that later work would draw upon, including melodrama's potential for critique of the dominant bourgeois ideology through its focus on its characters' 'experience [of] the contradictions of American civilization',²⁶³ and the expressive qualities of its visual style. Elsaesser employs as a catalyst for this discussion the dictionary definition of melodrama as a 'dramatic narrative' that employs musical accompaniment to heighten emotional effects, subsequently defining 'melodramatic elements [...] as constituents of a system of punctuation [...] orchestrating the emotional ups and downs of the intrigue'.²⁶⁴ He accordingly considers film melodrama as 'a particular form of dramatic mise-en-scène',²⁶⁵ one in which cinematic style expresses(/orchestrates) the emotional and psychological conflicts of the characters, whose lack of fulfilment is incurred by a rigidly ordered society and bourgeois ideology that is typically reproduced at the familial level. The dramatic mise-en-scène constructed through the melodrama's uses of colour and the widescreen frame, décor, props and gesture (among other elements) 'become functional and integral elements in the construction of meaning', enacting 'a sublimation of dramatic conflict [...] which in the best

²⁶³ Thomas Elsaesser, 'Tales of Sound and Fury: Observations on the Family Melodrama' [1972] in Marcia Landy (ed.) *Imitations of Life: a reader on film & television melodrama* (Detroit: Wayne State University Press, 1991), p. 89.

²⁶⁴ Ibid., p. 74.

²⁶⁵ Ibid., p. 75

melodramas is perfectly thematised in terms of the characters' emotional and psychological predicaments'.²⁶⁶ This utilisation of 'style-as-meaning' corresponds for Elsaesser with the American post-war popularisation of Freud (as the previous reference to sublimation suggests),²⁶⁷ with the style's rendering of unconscious motivations or desires encouraged by the genre's 'restricted scope for external action determined by the subject[s], and because everything [...] happens "inside"' ²⁶⁸

The inward turning nature of the family melodrama is illuminated through Elsaesser's comparisons of melodrama with other genres including the Western. Elsaesser argues that although the melodrama shares with the Western a recurrent focus on 'themes of emotional and moral identity',²⁶⁹ its replacement of the Western's expansive exterior settings and action-oriented characters means that 'it more often records the failure of the protagonist to act in a way that could shape the events and influence the emotional environment, let alone change the stifling social milieu. The world is closed, and the characters are acted upon'.²⁷⁰ These closed, inward-looking, stifling environments, with the family melodrama iconographically fixed to the domestic sphere and small-town setting, correspond to a limited range of what Elsaesser terms "'strong" actions'

The tellingly impotent gesture, the social gaffe, the hysterical outburst replaces any more directly liberating or self-annihilating action, and the cathartic violence of a shoot-out or a chase becomes an inner violence, often one which the characters turn against themselves.²⁷¹

²⁶⁶ Ibid., p. 76.

²⁶⁷ Ibid., p. 77.

²⁶⁸ Ibid., p. 76.

²⁶⁹ Ibid., p. 79.

²⁷⁰ Ibid., p. 79.

²⁷¹ Ibid.

The world of the melodrama thus acts for Elsaesser as one in which the characteristics of the American cinema, ‘violence, the strong action, the dynamic movement, the full articulation and the fleshed-out emotions [...] become the very signs of the characters’ alienation, and thus serve to formulate a devastating critique of the ideology that supports it’.²⁷² Themes of failure, inferiority and confinement circulate within the genre, reflecting the conflict between the individual’s psychological or emotional state and the limited and limiting external world. Elsaesser accordingly posits as one of the family melodrama’s central subjects the ‘victimisation and enforced passivity of women’, although he does not spend any more time on the genre’s gender representations.²⁷³

Elsaesser’s conceptualization of the family melodrama has proven influential, and it also offers a number of ways to begin approaching the melodrama’s courtroom scenes. The courtroom in Hollywood cinema is a social symbolic space, one that reflects the ordering processes of the external bourgeois world. It is a place where the actions of individuals, and more relevantly to this conceptualisation of the melodrama, the thoughts and feelings motivating these actions, are made to be accounted for in a public arena, and are examined in relation to broader societal codes of being. This is presided over by a court of law that can easily be shown to reproduce the stifling social milieu in its enforced passivity and scrutiny. The irresolvable conflict between the individual and society, internal and external, that Elsaesser views as the overarching subject of the family melodrama, is duplicated in the basic structure of the trial (assuming that our protagonists are legal outsiders).

²⁷² Ibid., p. 85.

²⁷³ Ibid., p. 84.

The courtroom, although not part of the domestic sphere Elsaesser associates with the genre, nevertheless represents the ‘closed world’ of the family melodrama, a space in which a rigid code of behaviours and rituals limits the ‘range of strong actions’. I have noted elsewhere the degree to which the trial scenario permits a narrow but intensely situated group of what I termed dramatic events; it is telling that these events overlap with Elsaesser’s examples of ‘strong actions’. The legal outsiders made subject to the court’s closed world are acted upon by the narrowed range of sanctioned behaviours, and any action that falls outside of this model – be it the dynamic movement, gesture or verbal outburst – is both rendered more dramatic within the trial scenario and imbued with a greater sense of futility through its opposition to the court’s governing structures. In the Western, the (male) protagonist typically does not need to account for his cathartic violent actions in the courtroom,²⁷⁴ whereas in my melodrama case studies, the (female) protagonist who takes such liberating violent action is made to answer to the court of law. Thus, the ‘liberating’ action offers only a momentary freedom from the ‘victimisation and enforced passivity’ of the external world, a passivity that is reasserted through the formal structures of the courtroom trial. One final method of approaching the family melodrama’s courtroom is to consider the extent to which the genre’s ‘dramatic mise-en-scène’ presents any ruptures of, or challenges to, the respectful representational strategies I outlined earlier, an issue which I will return to in my consideration of melodramatic excess shortly.

²⁷⁴ There are, as ever, exceptions: courtroom trials feature in the Westerns *The Return of Frank James* (Dir: Fritz Lang, 1940), *Broken Lance* (Dir: Edward Dmytryk, 1954) and *Valerie* (Dir: Gerd Oswald, 1957) among others.

Conceptualisations of Film Melodrama (2): The Woman's Melodrama

Later conceptualisations of Hollywood melodrama, linked with the rise in feminist film criticism, began to emphasise the genre's specific appeal to women, locating in Elsaesser's model (and subsequent examinations of the family melodrama, including that of Schatz in *Hollywood Genres*) an auteurist overemphasis on formally sophisticated and ideologically progressive melodramas directed by Douglas Sirk, Nicholas Ray and Vincente Minnelli at the expense of a broader maligned corpus of "woman's" films. Mulvey (1977-78) makes a distinction between tragic melodrama, aligned primarily with the male point of view, and a woman's melodrama structured through identification with the female viewpoint. Doane positions the woman's melodrama as one subgenre of the 'woman's film', of which she provides an introductory summation

The films deal with a female protagonist and often appear to allow her significant access to point of view structures and the enunciative level of the filmic discourse. They treat problems defined as "female" (problems revolving around domestic life, the family, children, self-sacrifice, and the relationship between woman and production vs. that between women and reproduction), and, most crucially, are directed toward a female audience'.²⁷⁵

Pam Cook addresses the specificities of the woman's melodrama in terms of the same point of view structures and female address outlined by Doane, contrasting it with the tragic melodrama she implicitly connects to Elsaesser's conceptualisation of the genre. A number of different conventions and concerns emerge from these contrasts that are useful to my project. Cook defines the construction of a female point-of-view as the methods whereby 'the female protagonist's perspective is presented through a combination of first-person (subjective) and third-person

²⁷⁵ Mary Ann Doane, *The desire to desire*, p. 3.

(objective) strategies'.²⁷⁶ Cook argues that in the woman's melodrama, these strategies problematize the protagonist's point-of-view, presenting her desires as fantasy and developing a hierarchical point of view structure that encourages the spectator to see the limits of her viewpoint from a privileged position of knowledge. For Cook, the melodrama's 'construction of the woman's point of view privileges intuition, emotion, accident, questioning the validity of female desire in that very construction'.²⁷⁷ In contrast to Elsaesser's conceptualisation of the dramatic *mise-en-scène* of the family melodrama, Cook views the visual code of the women's melodrama as another way of identifying female desire as fantasy while concurrently expressing her feelings and allowing the spectator to identify with her point of view. Similarly, Cook inverts Elsaesser's construction of the melodrama's 'closed world' with its alienated male hero, arguing that in the woman's melodrama, the protagonist's 'transgression resides in her desire to act against socially accepted definitions of femininity, bring[ing] her face to face with society'.²⁷⁸

Cook concludes that the male-oriented dominant narrative must 'mark the woman's desire to escape her fate as pure fantasy, ultimately unrealisable' by problematizing her point of view.²⁷⁹ She also asserts that notions of traditional femininity are often called upon as a 'corrective' to masculine destructiveness in the melodrama, but that the traditional basis of these notions, invoked in the service of 'balance' means that the feminine 'can modify, mediate, but it can never act to destroy, or to radically change society [...] Moreover, it is a femininity defined

²⁷⁶ Pam Cook, 'Melodrama and the Women's Picture' [1983] in Marcia Landy (ed.) *Imitations of Life* (Detroit: Wayne State University Press, 1991), p. 253.

²⁷⁷ Ibid.

²⁷⁸ Ibid., p. 254.

²⁷⁹ Ibid., p. 250.

exclusively as maternal'.²⁸⁰ These conclusions posit interesting implications for the inclusions of trial scenes within women's melodrama. The prioritisation of emotion, intuition, accident and fantasy in the construction of female point-of-view presents obvious points of contrast to the prevailing conceptualisation of law's processes called upon in Hollywood cinema (situating in the law impartiality, reason, and objectivity). The impossibility of radical destruction or change rooted in the feminine once again finds an ideal site of dramatization in the patriarchal courtroom, as does the transgressive female's enforced confrontation with society. I wish to use my case studies to see how these confrontations between the female point-of-view and the masculine courtroom develop within the melodrama narrative, and will return to Cook's argument when considering two scholars who see greater radical potential in the melodramatic construction of a female viewpoint.

Melodrama and Emotion

I wish now to spend more time extrapolating the role of emotion and affect in film melodrama, features that have been crucial to all of the conceptualisations of melodrama considered thus far (beginning with Patton in the previous chapter), and emotion's relation to the conventions of trial representation. The rendering and production of intense emotional states is often considered a defining feature of melodrama, with work by Neale (1986) and Liebowitz (1986) interrogating its centrality to melodrama's specific appeal and progressive potential, and Cook arguing that emotion constitutes a primary element of its construction of a female point of view. I would argue that the melodrama's processes of engendering

²⁸⁰ Ibid., p. 251.

specific emotional responses are pivotal to understanding its uses of the trial form, and wish to begin extrapolating this through reference to Pribram, who considers the nuanced relationships between melodrama, emotion and the ‘justice genres’

Melodrama has often been closely associated with emotion; indeed, it is often dismissed due to its oversaturated emotionality, discussed as a limiting quality [...] In contrast, the absence or marginalization of emotion is commonly presumed to be the case in the justice genres [...] Conversely, at the same time that the absence of emotions is hypothesized in the justice genres, other analysts speak of these same genres in terms of their emotional *excess*, in a parallel to melodrama.²⁸¹

These conflicting conclusions are to some degree both correct because (as Pribram and my previous chapters have demonstrated) there co-exists in all trial representations a perception that the trial process is ‘grounded in reason’ *and* an ‘indispensable engagement with emotions’. The depiction of an objectivised juridicial process that claims to be reliant solely upon facts and reasoning exists alongside the inability of films to extricate their concepts of justice from structures of emotional engagement. This combination can exist in a variety of forms. For example, my social problem case studies used the heightened emotion associated with melodrama differently. *Dust Be My Destiny*, a film which for most of its running time bears little relation to the conventions of melodrama outlined above relies heavily upon rendered states of emotion and the heightening of viewer emotional response in its climactic trial scene in order to render the trial’s outcome as convincing. Meanwhile, *Pinky*, a film heavily indebted to women’s melodrama that dramatizes the identity crisis of a female protagonist and aligns itself primarily with her point of view, downplays the emotional potentialities of its trial sequence, with its primary source of emotion residing in the audience’s acknowledgment of

²⁸¹ Pribram, *Emotions, Genres, Justice*, p. 69.

the unfairness of her prejudicial mistreatment. What is important is that, in both cases, this tension between emotion and reason is subsumed into an affirmation of the court's process through the depiction of a positive outcome. Justice is served, and the methods by which this occurred (be they extensive emotional appeal, fact-based reasoning, or a complex combination of the two), as well as the precariousness of these methods, are retroactively rendered insignificant.

I argue that it is in the divergence of the woman's melodrama genre's emotional structures of identification and the court's perceived uses of emotion that the former begins to differ from the dominant constructions of law and justice in the Hollywood cinema. The reason that the justice genres are considered to be simultaneously grounded in reason and engaged with emotions is because (as in my social problem case studies) they consistently attempt to combine reason and emotion under a unifying concept of justice. The woman's melodrama holds a more ambivalent relationship to the court's model of justice, and its uses of emotion often place a justice rooted in the emotional and the feminine in direct contrast to the man-made (in multiple senses) constructions of courtroom justice. This poses yet another figuration of the positive/natural law distinction and the double-trial structure. The melodrama's focus on female emotion is not subsumed into the court's processes, but challenges, complicates or halts them in ways that are largely absent from the previous trial representations I have considered.

Melodrama's Aesthetic of Justice and Relationships to the Law

I now wish to look at work which has dealt explicitly with conceptualisations of law, justice and the trial in the women's melodrama. It should be qualified immediately that much of this discussion builds upon literary theorist

Peter Brooks' conceptualisation of early (eighteenth and nineteenth century) melodrama. Brooks argues that melodrama emerged to respond to 'a world where the traditional imperatives of truth and ethics' had been violently questioned, but in which models of truth and ethics were still deemed necessary.²⁸² Lang's *American film melodrama: Griffith, Vidor, Minnelli* (1989) builds upon Brooks' consideration of melodrama as articulating an essential moral universe and the struggles over it. He argues that in film melodramas of the 1930s-1950s, this moral universe 'loses its overtly Christian inflection and the struggles tend to focus on the extent to which social conditions determine characters' destinies, before it becomes understood that the essential struggle is one for individual identity within a familial context'.²⁸³ Lang links this struggle to patriarchal oppression, concluding that the melodrama post-D.W. Griffith consistently represents 'a struggle against, or within, the patriarchy' over identities that have been repressed by it.²⁸⁴ For Lang, the function of law within the melodrama demonstrates the oppressive nature of patriarchy. Lang argues that the melodrama 'recognizes that we are all – men and women – subject to the Law' but uses his analyses of specific films to demonstrate that 'the nature of this Law – "the legally established social order" – [is] founded on and based in the difference between the sexes'.²⁸⁵ Lang continues to argue that:

All the discourses of the Law – religious, social and sexual – are melodramatic in their binary nature, based at the start on the fact of difference, with the masculine principle privileged. Even *language*, to use the term in its broadest sense, is masculine [...] All meaning and value in our culture derives from the moral need to distinguish between good and bad, and those terms, bound up inextricably with the difference between

²⁸² Peter Brooks, *The Melodramatic Imagination : Balzac, Henry James, Melodrama and the Mode of Excess* (New Haven; London: Yale University Press, 1996 [1976]), p. 15.

²⁸³ Robert Lang, *American Film Melodrama: Griffith, Vidor, Minnelli* (New Jersey: Princeton University Press, 1989), p. 3.

²⁸⁴ *Ibid.*, p. 4.

²⁸⁵ *Ibid.*, p. 9.

men and women, have always been the terms of our moral universe, which it is the melodrama's prime concern to articulate.²⁸⁶

Lang draws upon Lacanian psychoanalysis to identify what he believes are duelling symbolic and imaginary impulses in every film, 'the symbolic impulse towards narrative order, closure, etc., and the impulse of the Imaginary that [...] contradicts what the Symbolic stands for. It is towards bliss, the shattering of boundaries, the subversion of the Symbolic, in music, all moments of excess, non-sense, perhaps all emotion itself'.²⁸⁷ Lang thus argues that the melodrama 'is more on the side of the Imaginary than are other modes. Whatever is excessive in the melodrama is precisely so because it is beyond language. It is not recoverable by the driving impulses of the Symbolic to codify'.²⁸⁸ Although Lang does draw parallels between the Symbolic order and men/masculinity, and the Imaginary order and women/femininity, he argues that fundamentally the melodrama addresses *any* spectator who 'is not alone in his or her desire for [...] a logic that challenges mastery', and that appeals to emotion over 'reason or intellect' are a major part of this address.²⁸⁹

Lang's discussion once again asserts the terms of difference evidenced in and embodied by the melodrama that can be transferred to its specific inflection of the trial's meaning. The courtroom becomes a patriarchal apparatus that enforces a specifically masculine moral code, with language its primary codifying tool. This explains the ease with which the "universal" (white, male, educated) subject enters into the courtroom's modes of conduct. Similarly, the symbolic impulse to achieve

²⁸⁶ Ibid., p. 13.

²⁸⁷ Ibid., p. 27.

²⁸⁸ Ibid., p. 28.

²⁸⁹ Ibid., p. 49.

narrative order and closure is typified in the American cinema's dominant use of the trial form (which, as Bruzzi notes, embodies closure). Yet melodrama's own 'logic' conflicts with this structuring, and prioritises a different perspective on the moral universe that is aligned with the emotional and the feminine. Its appeal to the Imaginary is clearly at odds with what the courtroom trial represents (or claims to represent), undermining the tenets of reason, intellect and language upon which the court proceeding rests. Thus, in aiming to depict what is "beyond language", the melodrama is necessarily aiming at that which is beyond the understanding of the court. To me, this correlates with Doane's argument that the spectator and female protagonist are granted the 'ability to see through the evidence of the surface [...] which the Law and its representatives lack' in the trial scenes of two female-centred family melodramas, *Beyond the Forest* (1949, Dir: King Vidor) and *Johnny Belinda* (1948, Dir: Jean Negulesco).²⁹⁰

Other critics have extrapolated further upon the melodramatic constructions of justice argued by Lang. Gledhill (2001), working from an initial framing of the melodrama as a modality rather than a discrete genre, identifies melodrama as an 'aesthetic of justice' that makes moral judgments (located in designations of innocence and villainy) against a landscape of shifting social values. Drawing upon Steven Neale's notion of cultural verisimilitude as the 'signs and conventions by which a society represents what it believes to be the case',²⁹¹ Gledhill argues that

since melodrama is an aesthetic of justice and any 'body' can fill the place of innocence versus villainy, its genres may draw on the contested signs of cultural verisimilitude and bring radical as well as conservative images and voices into dialogic encounter at the boundaries where different genres or

²⁹⁰ Mary Ann Doane, *The desire to desire: the woman's film of the 1940s*, (Basingstoke: Macmillan, 1988), p. 55.

²⁹¹ Christine Gledhill, 'Melodrama and Cultural Disorder' in Jostein Gripsrud (ed.) *The Aesthetics of Popular Art* (Bergen: Senter for kulturstudier; Kristiansand: Høyskole Forlaget, 2001), p. 72.

polarised protagonists engage with each other in conflict, or indeed, in desire.²⁹²

Gledhill's conceptualisation offers a way of recognising the trial form's function across all of Hollywood cinema as an enabler of the 'dialogic encounter' between adversaries representing opposed sets of cultural values. But to think of it exclusively within the current context, Gledhill inspires us to think about the construction of justice being called upon in the women's melodrama through the specific conflict embodied by the female versus the courtroom. Linda Williams also identifies melodrama primarily through 'the sense of justice that [it] insists upon' rather than any set of formal or narrative elements.²⁹³ Dismissing notions of melodrama and realism as opposed forms, and the frequent positioning of the latter as the dominant mode of contemporary film and television, Williams argues that melodrama 'renews itself and makes itself modern by adapting the most recent awareness of social problems and failures of justice to melodramatic ends'.²⁹⁴ Once again, a consideration of the use of the trial form within the woman's melodrama must consider how the 'sense of justice' the film insists upon through its protagonists interacts with the representation of trial justice. This is particularly relevant to Williams' subsequent examination of how the melodrama's recognition of virtue is figured in relation to the depiction of institutions in contemporary screen melodrama. Williams argues more recent screen melodrama can demonstrate that 'institutions cannot embrace the good in any full way, as institutions, despite the many individuals who try to achieve justice within them'.²⁹⁵ I wish to ask whether

²⁹² Ibid., p. 74.

²⁹³ Linda Williams, "Mega-Melodrama! Vertical and Horizontal Suspensions of the "Classical"" *Modern Drama* 55: 4 (Winter 2012), p. 539.

²⁹⁴ Ibid, p. 530.

²⁹⁵ Ibid, p. 538.

we can detect a similar construction of meaning in an earlier form of screen melodrama, the woman's film, and identify the extent to which this critique of the institution can be located in its representations of the trial.

Few scholars have considered the specific role of the trial in women's melodrama despite the persistent interest in its aesthetic of justice and recognition of virtue. Kruger (1994) and Moulds (2013) have looked at the representation of female witnesses in the courtroom scenes of 19th century literary melodrama,²⁹⁶ locating in these novels the same structures of opposition between emotion/femininity and law/masculinity that I identify in my case studies, with the former being posited as a more dependable elicitor of truth in spite of its marginalisation by the latter. Issues of language are also raised by these literary scholars, who note in their texts 'a recurrent theme: the inability of the masculine legal system to comprehend women's speech'.²⁹⁷ Moulds argues that the courtroom depictions of melodrama 'favour not only the language of emotion but also the more marginalised speaker (the woman)'.²⁹⁸

I think that the issues raised by Kruger and Moulds are broadly applicable to the forms of melodrama I discuss. However, I have found only one piece of criticism that looks specifically at trial representation in film melodrama and which similarly considers the critique enabled by depicting the interaction between the masculinised courtroom space and the melodrama's alignment with a female viewpoint. Austin-Smith (2012) looks at the trial scene in three examples of the maternal melodrama subgenre (which I will return to in more detail shortly):

²⁹⁶ The texts they analyse include *Helen Fleetwood* (Charlotte Elizabeth Tonna, 1841), *Mary Barton* (Elizabeth Gaskell, 1848), *Adam Bede* (George Eliot, 1859) and *Felix Holt* (George Eliot, 1866).

²⁹⁷ Alison Moulds, 'The Female Witness and the Melodramatic Mode in Elizabeth Gaskell's *Mary Barton*', *Victorian Network* 5:2, (Winter 2013), p. 72.

²⁹⁸ *Ibid*, p. 77.

Confession (Dir: Joe May, 1937), *Johnny Belinda* and my second case study, *Madame X*. Austin-Smith argues that the trial scene in each of these films ‘promotes a radical critique of the ethics sanctioned by the courtroom’ and ‘interrogates the law [...] revealing its limitations when it is confronted with an agent whose sacrificial motive for violence cannot be accommodated to it, but to which it must accommodate itself if justice is to be served’.²⁹⁹ She relates this critique to Carol Clover’s concept of the double-trial,³⁰⁰ arguing that in the maternal melodramas the unofficial second trial pertains to the (mis)treatment of female victims as defendants. This argument can be applied to both my case studies.

However, Austin-Smith also employs certain terms and lines of argument that emerge from the body of literature on film melodrama that I think muddy her argument, and which I wish to differentiate from my own methods of approaching the trial melodrama. Austin-Smith discusses her case studies within the framework of theatricality.³⁰¹ This seems understandable given that the term recurrently figures in conceptualisations of both the courtroom trial and the melodrama. However its use by Austin-Smith, along with other terms borrowed from previous conceptualisations of melodrama, feels at points overdetermined. For example, she quotes Peter Brooks’ observation that melodrama ‘at heart represents the theatrical impulse itself, the impulse toward dramatization, heightening expression, acting out’,³⁰² then relates this notion of melodramatic theatricality to the concept of excess that much criticism (beginning with Brooks) has posited as central to the melodramatic mode. She designates each of the female protagonists of her case

²⁹⁹ Ibid, p. 103.

³⁰⁰ See Review of the Literature, p. 43.

³⁰¹ The chapter appears in an edited collection on ‘theatricality in cinema’.

³⁰² Peter Brooks, *The Melodramatic Imagination* (New York: Columbia University Press, 1985) p. xi; quoted in Austin-Smith, ‘The Ethics of Murder’, p. 103.

studies' trial scenes as excessive 'first in her murderousness, then in her silence, and finally in her expressiveness'.³⁰³ The emphasis upon excess is problematic given, firstly, that the 'passionate outburst[s]' she identifies as an example of the melodramatic excess of these trial scenes are a convention I have noted elsewhere that is not specific to the trials of maternal melodrama,³⁰⁴ and secondly, that the concept of excess as a specific property of melodrama (defined as excessive in relation a more classical model of cinema) has been challenged by Williams (2012). Similarly, the argument that the mise-en-scène of the trial scenes 'reinforces the sense of the courtroom as a theatrical space',³⁰⁵ is presented without examples from the scenes themselves, and fails to consider the inherently theatrical connotations of all filmic representations of the courtroom trial.³⁰⁶

I believe that a more productive manner of identifying melodramatic excess in these scenes involves referring back to the conventions of trial representation, and the restrictions imposed that render a significant number of narrative developments and representational strategies excessive. This allows us to engage more rigorously with the interaction between what is commonly viewed as the heightened representational strategies of melodrama and the respectful form of trial representation. Using this model, I would argue that Austin-Smith's reference to excessive silence is more convincing than the other excesses mentioned, as such deliberate silence is a convention less commonly evoked outside of the female-centred melodrama and thus positioned as 'excessive' more effectively within it.³⁰⁷

³⁰³ Ibid.

³⁰⁴ Ibid.

³⁰⁵ Ibid.

³⁰⁶ I argued this in Chapter One, p. 52.

³⁰⁷ Of course, exceptions to this rule exist. *Judgment at Nuremberg* contains in the character of Ernst Janning (Burt Lancaster) an individual who refuses to enter into the language of the courtroom for much of the trial. However, the gender and background of this character (he is

Austin-Smith argues that the maternal melodramas she examines ‘create from the tension between legal truth and maternal desire a verdict that sides with desire’.³⁰⁸ I will return to the specificities of this tension in my discussion of *Madame X* and maternal melodrama. I wish now to present the following quote from Austin-Smith’s conclusion and posit it as a way of approaching the role of the courtroom trial in the female-centred melodrama more broadly: ‘the trial scene takes the place of the menacing mill saws and train tracks to which the heroine is bound in early sensational film melodrama. We watch in suspense to see if the defendant will be rescued from the jaws not of villainy, but of the law’.³⁰⁹

This investigation of a number of approaches to film melodrama has revealed several avenues of inquiry through which to examine my case studies. The woman’s melodrama has been argued to provide a specific construction of justice, aligned with the female protagonist, that diverges from the constructions of law and justice sanctioned by the court. The terms of difference repeatedly evoked situate the masculine law of the courtroom in direct opposition to the melodrama’s own forms of address (which rely upon emotion, intuition, and non-verbal forms that are considered ‘beyond language’). My case studies can be used to examine how these opposed terms are navigated in the woman’s melodrama, and the extents to which the courtroom sequences of my case studies problematise the female point of view or present radical challenges to the courtroom’s legal ethics. To return to the concepts of trial representation outlined in my review of literature, these case

himself a former judge) offers a much different – and one could argue less radical – inflection to his silence than the challenge the silence of the victimised female offers to the courtroom.

³⁰⁸ Ibid., p. 110.

³⁰⁹ Ibid., p. 113.

studies demonstrate the possible avenues of development for Hollywood narrative when the ‘justice figure’ is a female who is cast in opposition to the legal process.

Home Truths: The Courtroom Trial Sequence of *Peyton Place*

Peyton Place can be considered as both family melodrama and woman’s melodrama. An adaptation of ‘the most commercially successful American novel of the 1950s’,³¹⁰ and a very popular film upon its release,³¹¹ the film presents the stories of an ensemble of characters within the titular setting, fitting Schatz’s description of the family melodrama’s narrative formula – ‘its interrelated family of characters, its repressive small-town milieu, and its preoccupation with America’s sociosexual mores’.³¹² The drama builds to a climactic courtroom sequence which puts several of its major characters on the stand, including its three central female characters, one of whom is the defendant in the case.³¹³ The scene in one sense

³¹⁰ Axel Knoenagel, ‘Inside Peyton Place: The Life of Grace Metalious’, *The International Fiction Review* 29:1/2 (2002) <<https://journals.lib.unb.ca/index.php/IFR/article/view/7726/8783>>, accessed 13 June 2015.

³¹¹ Both a major box office success and the recipient of 9 Academy Award nominations.

³¹² Thomas Schatz, *Hollywood Genres*, p. 151.

³¹³ The following is a summary of the film’s plot: *Peyton Place* tells the stories of a number of inhabitants of the titular small-town over the course of several years incorporating the build-up to and beginning of the U.S. intervention in World War II. The central drama pivots around two families, the MacKenzies and the Crosses. Constance MacKenzie (Lana Turner), a middle-class single mother, rejects the romantic interest of the town high school’s new principal Michael Rossi (Lee Philips) and attempts to discourage her daughter Allison’s own budding romantic and sexual curiosity, becoming increasingly paranoid over the state of Allison’s friendship with her introverted classmate Norman Page (Russ Tamblyn). In the Cross household, Lucas (Arthur Kennedy) rapes and impregnates stepdaughter Selena (Hope Lange). Lucas is blackmailed into signing a confession and leaving town by Dr. Swain (Lloyd Nolan) who secretly “assists” Selena with a miscarriage (necessitated after she suffers a fall while being chased by Lucas). Selena’s mother Nellie, who is also Constance’s housekeeper, is distraught by these familial traumas and the potential scandal they will bring to the family, and commits suicide in the MacKenzie home. Her body is discovered by Allison immediately after Constance has revealed the truth regarding her birth during an argument in which Constance, motivated by the gossip of the community, has become (wrongly) convinced that Allison has gone skinny-dipping with Norman; Allison was the product of an affair Constance had with a married man. This doubled shock incurs a mental breakdown in Allison. Both Allison and Selena subsequently cut ties with their painful family pasts. Allison disowns her mother and moves to New York in order to embark upon a writing career while Selena remains in Peyton Place with her younger brother Joey and renovates the Cross shack. She is employed in Constance’s dress shop and is courted by aspiring lawyer Ted Carter (David Nelson). However, Lucas’ return to the shack leads Selena to kill him in self-defence. She hides the body, but confesses the murder to

appears conventionally as an enabler of narrative resolution and closure, culminating in the defendant cleared and the titular community united following an address made on the stand by the town doctor, a development Schatz dismisses as a ‘utopian vision and neat happily-ever-after resolution’ in contrast to what he sees as the deliberate arbitrariness of the endings of Sirk’s melodramas.³¹⁴ Schatz argues that the film ‘resorts to a ritual sequence – a sensationalized small-town trial – in which the community comes to its collective sense and renegotiates its system of values and beliefs’.³¹⁵ I believe that there is more to examine within this sequence in the light of my investigation of critical approaches to melodrama, but which can actually incorporate Schatz’s dissatisfaction as a starting point. The trial sequence, I argue, appears as a locus of the film’s negotiation of contrasting, differently-gendered points of view. It employs this dissatisfying final address in order to subdue the alignment with a female point of view that is evidenced in the scene’s preceding narrative developments and representational strategies. I wish to look at the development of these conflicting points of view across the film and how they manifest, interact and resolve in the climactic trial sequence.

Constance and subsequently turns herself in to the police. Selena is charged with Lucas’ murder and the case goes to a trial, for which Allison and Norman – now a paratrooper – both return to Peyton Place. Constance’s attempts to reconcile with Allison are rebuffed by her daughter, who remains defiantly angry at her mother. Meanwhile, Selena reveals her intent not to reveal the truth regarding her rape despite the fact that it would strengthen the case for the defence, because she is convinced that the ensuing social scandal will damage Ted’s potential career. The trial begins, and the appearances of both Allison and Constance on the stand at trial as witnesses for the defence reveals for the latter the parallels between their familial traumas and the Crosses. She breaks down upon realising her failings as a parent. Dr. Swain subsequently takes to the stand and reveals the truth regarding Selena’s abuse and her miscarriage, using the opportunity to chastise the community for their complicity in the various traumas that have occurred. Selena is found not guilty, is reunited with Ted, and is celebrated by the community on the courthouse steps. The film ends with the reconciliation of Constance and Allison, who are joined by Rossi and Norman. Together the four form an image of the nuclear family as they enter the MacKenzie home.

³¹⁴ Thomas Schatz, *Hollywood Genres*, p. 160. The critical dismissal of *Peyton Place* as part of the project of appreciating the achievements of the more “sophisticated” family melodramas of Sirk have been noted by Jane Feuer (1984).

³¹⁵ Ibid.

There are a number of contexts that should be considered before looking in detail at the film's trial scene, including firstly the nature of the film's relationship to models of both the family and woman's melodrama. The sheer number of characters included within the film's ensemble complicates assumed features of both (sub)genres, because rather than focusing on the singular middle-class family or sole female protagonist, *Peyton Place* incorporates a number of characters with whom it encourages audience identification across boundaries of gender, age,³¹⁶ and class. Competing viewpoints and generic registers can be detected in the text, evident from the opening scenes, in which the point-of-view structures assumed by the opening voiceover narration from adolescent female Allison MacKenzie are held in tension with the subsequent (albeit temporary) focus on Michael Rossi, an older male whose introduction to the town doubles for the spectator's and thus positions him as another identification figure. In this sense, *Peyton Place* anticipates the identification strategies of the television soap opera,³¹⁷ and can be read in terms of Tania Modleski's argument that the soap opera form encourages an empathetic spectator response through identification with multiple viewpoints.

The status of *Peyton Place* as a family melodrama is most evident in its uses of the 'repressive small-town milieu' familiar to the genre. Schatz extrapolates the dual meaning of the term 'family' within his model of the family melodrama:

Ideally, the family represents a "natural" as well as a social collective, a self-contained society in and of itself. But in the melodrama this ideal is undercut by the family's status within a highly structured socioeconomic milieu, and therefore, its identity as an autonomous human community is denied – the family roles are determined by the larger social community. The American small town, with its acute class-consciousness, its gossip and judgment by appearances, and its reactionary commitment to fading values

³¹⁶ The narrative attention granted to the various adolescent characters as they navigate the world of sex, relationships and adulthood could be used to posit *Peyton Place* as an example of the teen film genre.

³¹⁷ It should be noted here that Metalious' novel was subsequently adapted for television in one of the first instances of the American television soap opera (*Peyton Place* [1964-1969]).

and mores, represents an extended but perverted family in which human elements (love, honesty, interpersonal contact, generosity) have either solidified into repressive social conventions or disappeared altogether.³¹⁸

Peyton Place exemplifies the small town Schatz identifies, with the film particularly attuned to the damaging effects of the community as typified by its older generation (with several important exceptions, to whom I will return shortly). Fears of scandal and gossip, of the reverberations of domestic trauma within the social community, are emphasised across the film, motivating Constance's fear of sexuality and Nellie's suicide, and reach an apotheosis in the trial sequence. The trial provides a space in which a series of repressed truths (Selena's abuse, Constance's failures as a parent) will be forced into the open and shared with the titular community. But it is also a space in which the community will be confronted with its own status as a 'perverted family'. Whereas the sense of scandal and public attention granted to the trial is present in the majority of courtroom sequences, *Peyton Place* uses the trial to depict the gathering of the community rocked by a scandal that involves them all, and eventually will see them addressed directly.

However, the community of Peyton Place does not entirely figure in a negative light. The film parallels the division of the community in *Pinky* in its presentation of an enlightened minority who remain impervious to the 'class-consciousness', 'gossip', 'judgment' and conservatism of the broader social sphere. These characters include Michael Rossi, Doctor Swain, and the schoolteacher Elsie Thornton (Mildred Dunnock).³¹⁹ However, these characteristics are designated so

³¹⁸ Thomas Schatz, *Hollywood Genres*, p. 153.

³¹⁹ This figure is a recurrent character type in the family melodrama, often depicted as a romantic interest for the female lead (essentially Rossi's function in *Peyton Place*), whose appeal lies in his non-conformist refusal to adhere to the 'repressive social conventions' of the community. Examples include Dr. Robert Richardson (Lew Ayres) in *Johnny Belinda* and Ron Kirby (Rock Hudson) in *All That Heaven Allows* (Dir: Douglas Sirk, 1955).

that it is primarily white, male authority figures who appear as and perhaps more crucially *speak to* the model of the progressive citizen, a construction that is held in tension with the film's frequent alignment with the female point of view. The way the film handles Rossi's employment as school principal (at the expense of Elsie, who is expected to be given the job) is especially interesting in this regard. Elsie's passive acquiescence to Rossi's employment in the light of his progressive ideas on education (including his intention to teach "a minimum of facts and a maximum of ideas" at the high school) could be viewed as an example of the film's problematizing of the female point-of-view. Elsie's desire to become principal is quickly discarded by the narrative, and a male takes the position of authority without significant attention being granted to this particular narrative thread thereafter: this correlates to Cook's argument that the male-oriented dominant narrative must 'mark the woman's desire to escape her fate as pure fantasy, ultimately unrealisable'. However, the brief but emotionally resonant moments that initially focus on Elsie after she realises that Michael has been given the position (including her advice to Allison and Selena: "if there is anything in life you want, go out and get it. Don't wait for somebody to give it to you") exemplifies the force of the film's emotional identification with its female characters, and the degree to which this is used to construct particular notions of injustice. The sense of an injustice perpetrated against Elsie lingers, and at no point during the remaining narrative does the film focus on Michael's emotional state to the same extent.

The film's primary dramatic focus and structures of emotional identification for much of the narrative resides with its female characters, particularly Allison, Constance and Selena. The film's concerns with expressivity – focusing on, as the voiceover from Allison asserts "what people were saying to each other, or were not

saying” – and its affirmation of emotional openness as a solution to personal problems (to be discussed in more detail shortly) are aligned with a traditionally feminine point-of-view, the film bookended by voiceover narration from Allison/Varsi that considers love as a “fifth season” said to reside in “you” (a direct address to the viewer). The opening voiceover, in which Allison discusses the passing of the seasons in Peyton Place in terms of the feelings they evoke, is typically melodramatic in the associations it draws between temporality and emotional states, with the emotions she mentions – “regret” “memory” and “desire” amongst them – recurrent themes of the melodrama that hold particular relationships to narrative temporality and the production of emotion.³²⁰

The most dramatic and emotionally heightened events depicted in *Peyton Place* are accordingly those that involve its central female characters, members of the Cross and MacKenzie families, whose dramas intersect and parallel each other throughout the film. The Crosses are the first family to appear, as the eldest son, driven to a breaking point by his stepfather’s drinking, leaves town. The setting (a small shack and surrounding rural exterior), costumes, and performances immediately situate this troubled family as, in American ideological terms, the class other. The following scene presents Cross matriarch Nellie (Betty Field) arriving at her housekeeping job at the MacKenzie home. The differences between the two worlds are evident in the juxtaposition of the Cross family shack with the Mackenzie’s white picket-fenced household, introduced via a ‘MacKenzie’-marked mailbox and accompanied by the sound of diegetic piano-playing emanating from

³²⁰ Critics have viewed the heightened emotional qualities of the melodrama as the result of the temporality of narrative events, connecting the production of irony and pathos characteristic of the melodrama to the thematic role of time’s irreversibility; significant emotional moments often depict a crucial development occurring past the point at which it would have affected the characters positively (see Steven Neale [1986] and Linda Williams (1991)).

within. The MacKenzies are resolutely middle-class, locked inside the bourgeois domestic sphere that is the familiar setting of the family melodrama. Yet the underlying similarities between the MacKenzies and the Crosses become evident over the course of the film and will be forced into the public sphere in the climactic trial sequence.

Throughout the film the juxtaposition of scenes featuring different characters serve to reveal the deeper similarities underlying the surface contrasts across divisions of age and social class (for instance, in the cross-cutting between Constance and Allison's interactions with the opposite sex, and the consecutive scenes of parental violence towards the female child in, respectively, the MacKenzie and Cross households), exemplifying the use of 'parallel situations and metaphoric connections' that Elsaesser identifies in the family melodrama.³²¹ The drama of the MacKenzies pivots around the damage caused by the sexually repressed Constance's attempts to control her daughter's budding romantic curiosity, in what is revealed to be an effort to suppress her own sexual history.³²² The repression that characterises Constance, a convention familiar to family melodrama and which is evidenced in her hysterical overreaction to matters of sexuality, is consistently viewed as a negative, damaging element, constructed in opposition to what the film deems to be the more appropriate attitudes of Allison and Michael. Its destructiveness leads to the revelation that Allison was borne out of wedlock, a dramatic event immediately followed by Allison's discovery of Nellie's body. The dovetailing of these revelations again presents us with the

³²¹ Thomas Elsaesser, 'Tales of Sound and Fury', p. 82.

³²² *Peyton Place* anticipates a later melodrama, *Splendour in the Grass* (Dir: Elia Kazan, 1961), which also dramatises a young woman's sexual repression and subsequent breakdown as a result of a controlling older generation.

‘parallel situations and metaphoric connections’ of the family melodrama, but their blurring also allows Constance to continue to repress her own role in Allison’s subsequent breakdown.

The third central female character of the film is Selena Cross, who appears as defendant in the trial. The trial is prompted by Lucas’ unexpected return to the Cross shack late in the narrative, when his attempt to rape Selena again leads her to kill him in self-defence. This return marks the sudden reversal of fortune that for Lea Jacobs typifies melodramatic narrative structures, arriving at a point in the narrative when Selena appears to have recovered from her domestic traumas. This recovery is evidenced in Selena’s employment at Constance’s tweed shop, her unwavering romantic attachment to Ted, and her renovation of the Cross family shack. Whereas the narrative of male rise is typically about making money, Selena’s rise prior to her trial is both economic and social. The manner in which the appearance of the Cross’ shack is transformed via set and production design demonstrates how *Peyton Place* makes Selena a bourgeois figure without any hesitation, just as the association with Constance’s tweed shop connotes a respectable femininity (allowing the female to work but ensuring that the work remains intertwined with the domestic/feminine sphere). Jacobs argues that the narrative structures of melodrama, which are reliant on ‘abrupt reversals’, coincidence and external ‘contingencies to which the hero does not contribute or for which he is not responsible’ enforce passivity upon its characters or only exacerbate their suffering when they do attempt to take action.³²³ That defending herself against Lucas on his return only worsens Selena’s situation is a tenet of

³²³ Lea Jacobs, ‘The Woman’s Picture and the Poetics of Melodrama’ *Camera Obscura* 11:1 (January/May 1993), p. 136.

melodramatic narrative, in stark contrast to the cathartic violence of the male Western hero. But it also leaves no doubt for the viewer that Selena is a victim by the time of the trial. Both Selena's ascension to bourgeois status and her explicit victimisation function to make her a safe figure of audience identification. Melodrama's 'aesthetic of justice' and emotional alignment with the victim ensure this.

However, sympathy exists in tension with a desire of Selena's that begins to complicate a straightforward response to the stakes of the trial. Selena has knowledge that she wishes to keep secret from the court or, more accurately, the community, and which is shared only with the audience and one other character within the diegesis. Dr. Swain knows that the murder of Lucas was an act of self-defence motivated by Selena's previous rape, and that revealing this would most likely see Selena cleared of the homicide charge. Yet Selena refuses to reveal the truth regarding her sexual abuse by Lucas in court for fear that in the ensuing scandal she will "lose Ted" - or rather, that aspiring lawyer Ted will lose social status in being associated with the scandal of the Crosses. A central irony here is that it is Ted's entry into the masculine sphere of law that Selena is trying to protect through her own challenge to the court.³²⁴ When in a scene prior to the trial, Dr. Swain has attempted to convince Selena to tell the truth in court by warning her that "prison can be a kind of dying," her response - "losing Ted would be a worse kind of dying" - demonstrates the primacy granted the emotional in the woman's melodrama. The paradox that the potential emergence of the truth regarding

³²⁴ The trope of the female defendant having an emotionally-rooted reason for refusing divulge information in the courtroom occurs in other woman's melodramas including *All This, and Heaven Too* (Dir: Anatole Litvak, 1940), *Confession*, and my next case study, *Madame X*. This trope works to place on an adversarial level the legal and female viewpoints.

Selena's abuse would both see her freed and, from Selena's perspective, ruin her life, and the tension that results from this, is one of two major narrative strands we expect to comprise the trial sequence. The other is the familial conflict between Allison and Constance, both of whom are called to the stand as witnesses for the defence. Selena's trial brings Allison back to Peyton Place, and it is during the climactic trial sequence that the domestic dramas of the MacKenzies and the Crosses again dovetail.

This brings us to the issue of resolution and the question of how the film has guided the spectator to expect a certain type of resolution from its court sequence. A brief consideration of how other narrative threads have been resolved prior to the trial gives us a strong indication of this, beginning with the final scene between Betty Harrington (Terry Moore) and her father-in-law Mr. Harrington (Leon Ames). Mr. Harrington, who had voiced a strong disapproval of his son's "flashy" choice of wife, apologises upon his son's death in the War, and is chastised by Betty for teaching his son that "appearances counted more than feelings". Mr. Harrington's acceptance of Betty provides a closure to this storyline that is rooted in an emphasis upon "feelings" over the upholding of hierarchical social divisions. The other storyline that has reached closure prior to the court scene is the romantic union of Constance and Michael. Constance, despite her concern that he will "want anything but the truth" upon hearing it, confesses Allison's illegitimacy, which provokes Michael's reassurance that he is committed to her completely. This notion of truth-telling is especially relevant to a character (Constance) who has been characterised largely by her repression. Finally, another potential reconciliation of a personal relationship is suggested when Norman explains to Allison moments prior to the trial scene that he is returning to Peyton Place to "work things out" with his

controlling, possessive mother (another clear instance of parallelism between two sets of characters in the film). These narrative strands all point to a positioning of emotional reconciliation and truth-telling, stood in opposition to the social pressures of the community, as the source of resolution to the various domestic traumas, a reminder of the centrality of expressivity to melodrama. Thus, the narrative has guided the viewer to expect a continuation of this form of resolution in the courtroom scene, both with respect to the fracture in the Constance/Allison relationship and, much more ambivalently, Selena's secret.

One final context that must be considered before looking at the trial scene in detail is the relationship of *Peyton Place* to the Production Code censorship guidelines. The climactic trial can be seen as an integral element of the manoeuvring with which *Peyton Place*'s highly controversial source material was adapted for the Hollywood cinema of 1957. The film's production coincided with changes that took place in the censorship structures of Hollywood cinema during the 1950s. Leff and Simmons discuss the 'major Production Code rewrite' undertaken in 1956 'that lifted all remaining taboos except nudity, sexual perversion, and venereal disease' and led to the attitude that 'from now on [...] "it's the treatment that counts"'.³²⁵ Leff and Simmons specifically refer to *Peyton Place* and its sequel *Return to Peyton Place* (Dir: Jose Ferrer, 1964) as films that were able to circumvent censorship guidelines through their "treatment" of such sensational topics as sexual violence, abortion and suicide,³²⁶ a circumvention

³²⁵ Leonard J Leff, and Jerold L Simmons, *The Dame in the Kimono: Hollywood Censorship and the Production Code* (Kentucky: The University Press of Kentucky, 2001), p. 225.

³²⁶ Similarly to other melodramas such as *Leave Her to Heaven* (Dir: John Stahl, 1945) and *Beyond the Forest* (Dir: King Vidor, 1949), the issue of abortion is both elided and alluded to through the depiction of accidental or deliberate miscarriage. The major difference is that, in contrast to the villainous females of the aforementioned films, whose deliberate decisions to incur a miscarriage are presented as evidence of their amorality, Selena's miscarriage is more ambiguously situated.

deemed especially important for a big-budget prestige studio production with Academy Award potential. *Peyton Place*'s adjustment to the genre framework of the melodrama in the course of its adaptation from the source material in some part demonstrates its specific 'treatment' of controversial material. For instance, the aforementioned subplot resolutions, structured around emotional reconciliations, function to counter the bleak view of society and human relationships presented in the novel. The trial sequence's placement as the narrative climax also tasks it with working through and making acceptable the challenges to the Production Code it has presented in the preceding narrative, including the ambiguities surrounding Selena's "miscarriage" and the fact that the protagonist has committed the crime of which they are accused. The audience wishes Selena to be found not guilty for reasons other than, strictly speaking, innocence. The scenario of the trial itself offers a safer means of navigating this material, treating its troubling discourse via the legitimately proper narrative device of the courtroom.³²⁷

Thus the trial sequence, as the narrative climax of *Peyton Place*, is tasked with managing a number of elements beyond depicting the outcome of the case. These include dealing with both the cross-purposes of the legal proceeding and Selena's desire, and the rift in the MacKenzies' relationship, within the structures of resolution set into place by the aforementioned narrative subplots. It also

The action of Swain "assisting [Selena] with a miscarriage" can be read as either an abortion (a reading given added validity through its parallel to the events of the novel) or, the more censor-proof alternative, a medical procedure necessitated by Selena's fall (i.e. she has already begun to miscarry and Swain's "assistance" was merely to ensure the remainder of the miscarriage occurred with the minimum of damage to Selena). The ambiguous treatment allows the more sophisticated viewer (especially a reader of Metalious' novel) to the former interpretation while the latter appeases the censors.

³²⁷ *Anatomy of a Murder* another film that tackles the subject of rape, also uses the courtroom setting to legitimate the inclusion of otherwise controversial language within a legalistic context.

includes navigating the potential challenges to the Production Code through its specific treatment of issues including homicide, rape and abortion.

For the sake of the theme of scandal, the melodramatic emphasis on expressivity, and the subsequent final address, it is also imperative that a sense of the diegetic community's presence is given during the trial. The visualisation of the sequence ensures that the wider community is consistently present throughout, through a combination of the elements I mentioned in my first chapter³²⁸ and reaction shots of specific members of the community. The reaction shots include not only our central females and their male companions, but figures such as Dr. Swain, local newspaper editor Seth Bushwell (Robert H. Harris), and Mrs. Partridge (Peg Hiliias), whose presences individually gesture towards the inclusion of a particular strata of the community. Mrs. Partridge for example, sat among a selection of similarly dressed middle-aged women, is the archetypal town gossip figure, emblematic of the community's 'gossip and judgment by appearances', and thus figures as a particularly pointed target of Swain's final address.³²⁹ The use of the widescreen Cinemascope frame more generally allows for the inclusion of many individuals even within relatively tight framings (see Figs. 48-49) and makes the viewer consistently aware of the considerable turnout necessitated by the film's diegetic contexts.

Once again, the courtroom players are incorporated into the sequence to orient the viewer and provide verisimilitude, but are relegated to narrative

³²⁸ Shot compositions that incorporate the spectators within the frame and the aural responses from the spectators that punctuate the sequence.

³²⁹ Other notable examples of this figure in the melodrama, who function in a similar manner, include the character of Mona in *All That Heaven Allows* (Dir: Douglas Sirk, 1955) and the elderly women of the community in *Johnny Belinda*.

insignificance. The jurors are presented in a manner that refuses to individualise them (Fig. 46). The judge appears in a recurrent symmetrical framing that denies him a presence beyond his symbolic function (Fig. 47). Part of the tension of the trial sequence emerges from the resolutely flat characterisation of the prosecutor (Lorne Greene), who has no emotional investment in the case, no prior connection to the narrative or the community, and who is described prior to his first appearance in court as “thoroughly competent and relentless as the law itself”. The lawyer for the defence is a more familiar face, Mr. Partridge (Staats Cotsworth), but is crucially not a figure of emotional identification for the spectator on the level of any of the central female characters. I mention the lawyers, jury and judge to demonstrate how little interest the film and its spectator has in them (although the characterisation of the prosecutor will serve an expressive function later in the sequence). These representational choices work on one level to convey the sense of order that implicitly affirms the trial system. There is certainly no explicit attempt to critique or subvert the legal institution through its visual representation in *Peyton Place*. Instead, the flat characterisation of the courtroom players redistributes focus on to the relationships between the significant characters present. It is the specific treatment of these relationships that I wish to examine as the melodrama’s major inflection of trial convention.



Figs. 46 (top) and 47 (bottom)

For example, the business of ‘court coming to order’ at the start of the sequence transpires alongside shots of Allison and Constance, on separate sides of the spectator’s gallery, noticing and either hoping for or refusing communication with the other, their eye-lines contrasted with the surrounding individuals in the frame who uniformly face the court’s stage (Figs. 48-49). This provides a clear example of the film’s recurrent strategy of depicting private dramas during communal events, thus juxtaposing the individual and communal mood.³³⁰ The exchange between Allison and Constance establishes this relationship as one that will be dramatically important to the sequence, and yet it is a relationship that exists outside of the ritual of the trial. This already suggests the film’s own structures of point of view and their potential divergence from the legal narrative.

³³⁰ A previous example occurs in the scene that immediately follows Selena’s rape by Lucas; the scene depicts the high school graduation ceremony, where, during Allison’s address to the graduating class, a close-up of Selena depicts her melancholic withdrawal.



Fig. 48



Fig. 49

Selena is not one of the last individuals to take to the stand, but instead gives testimony after Joey (Scotty Morrow), the first witness depicted. Both before and after her testimony, reaction shots show Selena to be unresponsive to the on-stage events, as if preoccupied with her own private dilemma. The moments in which Joey takes to the stand prior to her own questioning typify this. The presence of a precocious child on the stand allows some humour to be injected into the sequence,³³¹ but reaction shots of Selena convey her withdrawal, a parallel to the shots of her during the earlier graduation scene. When Selena is called to the stand,

³³¹ The humorous tone of Joey's testimony, augmented by the diegetic laughter from the spectatorship, is in line with the conventions I outlined earlier (see page 81). A lighter tone is acceptable in the earlier portion of the sequence, but the transition into a more serious tone must occur at some point, especially in light of the film's subject matter (rape, murder, miscarriage).

a shot captures her emerging from her distracted introspection before standing. These gestures, however minor, are crucial to underlining the presence of factors which are beyond language and the conventional understanding of the court, and which are located in Selena's private emotional world.

Selena must now take to the stand and speak, submitting to the structures of the court and attempting to defend herself without revealing the truth she wishes to keep secret. Selena/Lange speaks hesitantly and quietly at the outset of her cross-examination. Cinemascope framings dwarf her within the image and emphasise the isolation of her private turmoil, continuing a visual patterning throughout the film of utilising the widescreen frame to isolate Selena and convey her victimisation at the hands of various external factors (Figs 50-52). However, as the prosecutor's questioning becomes more accusatory, Selena becomes visibly frustrated. Reaction shots of Ted and Joey, who listen to the prosecutor accuse Selena of "inviting boys in" while Lucas was away, remind us of the truth of the situation as opposed to the scenario the prosecutor is attempting to imply. These insinuations are rooted in assumptions surrounding class and respectability; as with those made on the stand by Melba Wooley in *Pinky*, there is an implicit judgment of the class other, particularly when she is a young female, as sexually promiscuous. On a medium close-up of Selena, the prosecutor continues, "When you thought [Lucas] was going to change all that, did you kill him?" and her angry, tearful response, "No! Lucas was drunk and tried to beat me!" is accompanied by her clasping her hands to the arms of her chair. Lange's performance, through the use of such gestures and her pained facial expressions, conveys the emotional conflict she experiences in her attempts to both hide certain facts and adequately defend herself against the prosecutor's accusations. These are the 'tellingly impotent gestures' Elsaesser

identifies in the family melodrama, typifying the blockages to direct action constructed by the repressive social world and intensified in the scrutinising public arena of the courtroom. The intensity of the prosecutor and Selena's emotional response is given a specific inflection for the spectator due to the knowledge of Selena's previous abuse, an inflection that is rendered explicit when Partridge accuses the prosecutor of "not cross-examining but harassing the witness". This moment reveals the parallels between the forces oppressing Selena in the courtroom and her treatment at home earlier in the film. Not only is the inherently masculinist aggression of the courtroom revealed, but it is equated with the victimisation endured by the woman in the domestic sphere; Selena is forced into passivity in both scenarios by men.³³² Austin-Smith's notion of the double-trial structure being employed to demonstrate the victimisation of the female in the courtroom is exemplified here.



³³² In the equivalent courtroom scenes in *Confession*, *All This and Heaven Too*, and *Johnny Belinda* the patriarchal structuring of the courtroom is made evident in shots of all-male jurors and other legal actors. In these instances, the sole female in the courtroom is cast in opposition to an entirely masculinist legal proceeding, making clear the woman's marginalised position and the terms of difference that suggest it is unlikely she will receive fair treatment by the court.



Fig. 50 (top image); Fig. 51 (middle image); Fig. 52 (bottom image)

The following two witnesses are Allison and Constance. Their consecutive trips to the witness stand are written so that the questioning given to both characters relates back to their relationship. This comes to share equal narrative prominence to Selena's case, making clear the parallels between the respectable middle-class family and the more overtly disreputable Crosses, as well as signalling the continued surrender of the legal narrative to a heavily emotional, feminine point of view. Allison takes to the stand first. Following the initial shot in which she is both called up and approaches the witness box, there is a cut to a medium two-shot of Rossi and a nervous looking Constance. It is important to note the differences between Allison and Selena on the stand. Allison's costuming (a navy blue shoulder-padded two-piece and matching hat, with a polka dot cravat and white gloves) befits her social ascent, conveying through its colour, shape and use of accessories the image of the career woman/city girl.³³³ This invites a contrast with the relative limits of Selena's social rise. Selena wears a simple lavender dress in keeping with the more traditionally feminine costumes both characters have worn

³³³ Similar choices in costuming – pivoted around the subtle masculinisation of the career woman's clothing through the use of darker colour schemes (navy blue, grey) in combination with more feminine accessories that connote a level of cosmopolitan glamour (and wealth) - appear in *The Best of Everything* (Dir: Jean Negulesco, 1959), which depicts the lives of a series of New York career women who work, like Allison, in the publishing industry.

earlier in the film. A further contrast is evidenced in Allison's confidence on the stand - at one point during the questioning she turns to the judge and asks "Do I have to answer these questions?" an action unthinkable for Selena. Again, issues of the cultural categories into which a witness falls become prominent as the young female's relationship to the courtroom (and accordingly, the law) is constructed through indications of social position.

The dramatic purpose of Allison's cross-examination is to begin the process of making public the parallels between the MacKenzies and the Crosses. Following the opening question, an ellipsis takes us to what is presumably a later moment in the questioning. The prosecutor asks Allison, in response to her claim of witnessing Lucas slap Selena earlier in the narrative, "Have you ever been slapped Miss MacKenzie?" A series of cuts between Allison and Constance follows as the former admits to being slapped by her mother. Reaction shots of Constance reconfigure the emphasis of the moment to focus on the mother/daughter relationship, and our awareness of the spatial positions of the two women allows for a series of private glances to be exchanged beyond the on-screen space (and, implicitly, beyond the view of the courtroom spectators). The slap Allison saw Lucas give earlier, which is being used by the former as evidence of his domestic abuse, is explicitly equated with the slap her own mother gave her earlier via the prosecutor's questioning.

Constance then takes to the stand as another witness for the defence. The shot of the two crossing paths allows for a further dramatisation of the offer and refusal of communication depicted at the outset, again constructed as a private interaction limited by the public context. The repression that has been a defining element of the characterisation of Constance serves the film dramatically in her appearance in the trial sequence. The confessional mode permitted by the trial form

can take on a more explicitly psychological or emotional resonance when applied to the melodrama's concern with expressivity. The trial, which functions as a means of applying emotional pressure to the individual in order to have them reveal (advertently or otherwise) evidential truths, figures here melodramatically in order to force Constance to acknowledge her failings as a parent. From the moment that Constance takes the stand, repeated glances to the off-screen space occupied by Allison convey her distraction and its source (Fig. 53). On only her second question, Constance must ask for it to be repeated as she glances at this off-screen space. A reverse shot displays Allison leaning forward in her chair, another expressive but powerless physical gesture that conveys her increasing concern for her mother (Fig. 54). A potential moment of reconciliation is thus constructed that is rendered impossible by the procedural and rigidly bound courtroom setting.

The notion of the female being forced outside of her terrain (e.g. the domestic space) in the courtroom is especially pertinent in relation to Constance. Throughout the questioning she is defined through her motherhood and relationship to the domestic in a manner that also begins to bring out the parallels between her own dramas and those of the Crosses. Thus, when she mentions the death of Nellie and is reminded by the prosecutor that "we're not concerned here with Mrs. Cross' suicide", a look of displeasure crosses Constance's face and she interjects "but I don't see why not. There was something terribly wrong in the Cross family life. Somethin' wrong when a woman had to raise a daughter up almost alone". It is from this point that the repeated return of Constance's eye-line to the off-screen space occupied by Allison corresponds to her growing awareness of the parallels between her own family and the Crosses, an awareness captured through our awareness of the space (the spectator knows who Constance is looking at) and

Turner's performance. The questioning turns to the issue of the slap Allison saw Lucas give Selena. We learn through Constance's responses that Allison did not tell her mother about this incident, which is then used by the prosecutor to insinuate that Allison has lied. The idea that Allison would "bring her problems home" is thus configured as legal evidence of a healthy mother/daughter relationship, and Constance's inability to counter this leads her to recognise her maternal failings. Constance must confess on the stand that Allison "did bring her troubles home" but that she as a mother "wouldn't understand", before repeating the latter phrase loudly in distress as she breaks down, interrupting the prosecutor's questioning (Figs. 55-56).



Fig. 53



Fig. 54



Fig. 55



Fig. 56

The breakdown of the female on the stand conveys a sense of specific pressure that the female and her implicitly excessive emotional life cannot cope with. This is inscribed in the conventions of the trial scene across the Hollywood cinema in terms of its representation of female witnesses.³³⁴ But it is given a specific inflection in this instance through the conventions of melodrama and Lana Turner's star persona. Turner is a star who holds particularly strong associations with the woman's film and melodrama genres.³³⁵ Dyer argues that many of her films use the connotations of artificiality accrued through Turner's persona and performing style to depict at a climactic moment an emotional breakdown that produces an effect of 'Turner shedding her actor's artifices and giving us naked emotion' in a manner that 'make[s] a formal break' from the film's presentation of her.³³⁶ Although Dyer makes this argument in relation to two films where Turner plays a professional performer,³³⁷ I think it can be related to *Peyton Place* given that repression is such a crucial facet of the characterisation of Turner's character.

³³⁴ Female witnesses are often characterised through emotional reactions on the stand that are deemed excessive in relation to the trial's purpose and formality. These reactions include screaming, crying and fainting. Instances are too numerous to be detailed here, but significant examples within the golden age corpus include the outburst of Mayella in *To Kill a Mockingbird* and the behaviours of Irene Hoffman (Judy Garland) in *Judgment at Nuremberg* and – in what is eventually revealed to be, in a subversion of this convention, a performance of female courtroom hysteria – Christine Vole (Marlene Dietrich) in *Witness for the Prosecution*.

³³⁵ She starred in a number of examples of the genres, including (but not limited to) *A Life of Her Own* (Dir: George Cukor, 1950), *The Bad and the Beautiful* (Dir: Vincente Minnelli, 1952), *Peyton Place*, *Imitation of Life* (Dir: Douglas Sirk, 1959), *Portrait in Black* (Dir: Michael Gordon, 1960), *Love Has Many Faces* (Dir: Alexander Singer, 1964) and *Madame X*.

³³⁶ Richard Dyer, 'Four Films of Lana Turner' in Marcia Landy (ed.) *Imitations of Life: a reader on film & television melodrama* (Detroit: Wayne State University Press, 1991), p. 427.

³³⁷ *The Bad and the Beautiful* and *Imitation of Life*.

The trial scene allows for a cathartic release of ‘naked emotion’ from a previously repressed character and, considered in relation to the public scenario, also functions as a punishment for that same repression (to have this display of suffering occur in the public realm parallels her fear of scandal).³³⁸ The staging of the breakdown, with Constance also framed within long shots that emphasise her isolation on the stand, guides us towards a sympathetic response towards her, however, so that the primary narrative goal of resolution through reconciliation remains intact.

Another specifically melodramatic inflection of this moment resides in the direction of the emotional outburst. The public release of emotion does not work conventionally in the interests of the procedural development of the trial or the spectator’s understanding of the crime’s context.³³⁹ Rather, Constance’s breakdown, in both the representational strategies that align us with her response to a private matter external to the trial, and its effect on the narrative development of the scene, disrupts the advancement of the trial proceeding. The moment is constituted as excessive within the specific context of the trial, as demonstrated by the recess it incurs, another instance of the melodrama’s complex relationship to gendered points of view. The spectator is aligned with Constance’s emotional turmoil in this moment, but it is also problematized as a blockage to the court’s overarching goals. These moments in which the emotional emphases of the melodrama (typically aligned with the point of view of a central female character) overrides the legal(/masculine) narrative recur in the melodrama as an inflection of

³³⁸ I would argue that a similar tension emerges from the treatment of the character of Marylee Hadley (Dorothy Malone) in the climactic trial scene of *Written on the Wind*. The character’s private confession, emotionally rendered during her testimony, functions as part-redemption of, and part-punishment for, her earlier transgressions.

³³⁹ Compare it, for example, to the role Mayella’s breakdown plays in *To Kill a Mockingbird* in heavily suggesting that her accusation is false, or the crucial role the emotional appeal of Mabel in *Dust Be My Destiny* plays in the subsequent “not guilty” verdict.

courtroom convention. It is frequently connected to the inclusion of exchanged looks between individuals in the courtroom of the type captured in *Peyton Place*. Other examples feature in *Blossoms in the Dust* (Dir: Mervyn LeRoy, 1941), *Written on the Wind* (Figs. 57-58),³⁴⁰ and *Confession*. These looks, crucial to the development of the scenes, register an emotional understanding between two characters that goes unseen by the procedural structures of the law (and the rest of the courtroom). Aligned strongly with the female point of view, these looks reassert Lang's conceptualisation of an imaginary mode rooted in that which is 'beyond language' and which stands in opposition to law's need to order and codify through language.



Figs. 57 (top) and 58 (bottom)

³⁴⁰ I wish to provide some narrative contexts for this pivotal nonverbal courtroom exchange. The climactic inquest in *Written on the Wind* is dramatically structured around the intention of Marylee Hadley (Dorothy Malone) to falsely testify to having witnessed the murder of her brother by Mitch Wayne (Rock Hudson) as vengeance for the latter's failure to return her unrequited love for him. However, on the stand, the crucial exchange of tender looks between Marylee and Mitch elicits a confession from Marylee of the truth as depicted earlier in the film.

However, this momentary shattering of the law's structures in *Peyton Place* is problematised by the rendering of Constance's emotional response as excessive within the formal structures of the courtroom. The subsequent climactic development is Dr. Swain's address, which functions to reassert the ordering masculine structures of law. Constance's breakdown leads to an adjournment, the narrative purpose of which is to dramatize the motivation underlying Dr. Swain's decision to take to the stand and take charge of the procedure. The females on the stand are thus contrasted with the doctor who, at the climax of the sequence, reveals the truth about Selena and condemns the community for their complicity. His statement that "we've wasted too much time torturing a girl who's emotionally unable to speak for herself" encapsulates the symbolic's opposition to the imaginary mode in its dismissal of the imaginary's prioritisation of emotion and the non-verbal. Emotion is instead figured as a blockage to the speech that is needed to reaffirm the structures of law and order, and thus Selena's challenge to the courtroom is quashed by the good patriarch (both scientist and wise man). This development also appears in other female-centred melodramas, including *Outrage*, in which the female defendant is rendered mute in the courtroom and must have a priest speak on her behalf, and *Johnny Belinda*, in which the deaf-mute defendant must have her testimony literally translated by the male lead, who uses the opportunity to present his case for the defence. Tellingly, in all three of these films, the female has been raped and her silence is situated by others as symptomatic of the trauma she has endured rather than as a deliberate challenge to the court's reliance on verbal communication to process and codify.

The representational strategies employed during Swain's testimony underline the authority with which he takes command of the court. A greater sense

of an authoritative awareness of and address to the audience within the courtroom is conveyed through the volume and clarity of Swain's voice, the close-up framings of him on the stand (contrast with the long shots used to undermine the authority of the female witnesses) and reaction shots of other major characters. There is also a sense of (masculine) bravery and agency in Swain's actions, not only in taking to the stand, but of the potential threat to his career in his revelations regarding his "assistance of Selena with a miscarriage". The assertion of Swain's qualities as an authority figure (his command of oratory, his common-sense value system) is one manner of leading the viewer away from the suggestions of abortion and his admitted ethical misconduct. The film affirms him even further by having the judge, an even more weighted symbol of patriarchal authority, state when the prosecutor tries to interject during Swain's address that "Dr. Swain has come forward at considerable risk to himself and I intend to hear him through without further interruption." Similarly, it is notable that Swain's address to the courtroom is emphasised over the business of the signed confession from Lucas that he also brings to the stand; the individual is given primacy over the evidential.

The treatment of Doctor Swain on the stand reflects the gender divide inscribed across courtroom sequences within Hollywood cinema. Swain, as a patriarchal figure with a considerable measure of masculine authority, is in control of language and his surroundings on the stand. His role as enlightened member of the community is used to make him the mouthpiece for a moralising speech that makes the titular community 'come to its collective sense'. The confessional mode of the melodrama is replaced with the didactic mode of the social problem film, in a manner that diverges from the ambivalent narrative resolutions of the family melodramas of Sirk, Ray and Minnelli, as well as Metalious' novel. The problem of

Peyton Place is given its solution, and it is this neatness that constitutes Schatz's main issue with the trial scene. However, ambivalence is a quality of the subsequent moments of the sequence, which contain point of view constructions that act as the final reminders of the film's alignment with Selena's desires and the divergence of these desires from the trial's imperatives.

Following the end of Dr. Swain's testimony, there is a fade to the verdict. The "not guilty" verdict is read out before the court, but instead of a unified reaction of celebration (as in the equivalent moment from *Dust Be My Destiny*), there is a momentary ambivalence as non-diegetic scoring is utilised for the first time in the sequence, a sombre repeated bass note. The verdict is read out over a shot of Selena, looking down, disengaged from the surrounding spectacle. When the "not guilty" verdict is read out her only gesture is to shut her eyes gravely, concurrent with a low bass sting on the soundtrack (Fig. 59). There follows a series of reaction shots while this scoring continues; Dr. Swain stood amongst other spectators, Ted lowering his head next to an incongruously pleased Joey (Fig. 60), and Constance leaning into her husband Rossi with an exhausted rather than joyous sense of relief (Fig. 61). There is no roar of approval from the courtroom spectators. It is not until the reunion of Ted and Selena in medium close-up that the latter smiles for the first time in the sequence, and her absorption back into the community outside of the courtroom affirms that the community has indeed, to quote Schatz, 'come to its collective sense'. The depiction of the verdict itself makes evident the split between the verdict of the court and what Austin-Smith would term the 'verdict that sides with desire'.



Fig. 59



Fig. 60



Fig. 61

This ambivalence at the end of the courtroom sequence is interesting with regards to the agendas that *Peyton Place* is trying to address. There has been a moralising address from Dr. Swain, and the subsequent post-courtroom final scene in which Allison and Constance are reunited, heading into the house alongside Michael and Norman in another example of what Dyer describes in relation to the ending of *Imitation of Life* as ‘the cobbling together of the nuclear family characteristic of the postwar film melodrama’,³⁴¹ before Allison’s voiceover reminds us of the healing power of love. All of these choices work to affirm a dominant bourgeois ideology in the film’s final moments. In this context, Selena and the relative non-entity Ted are, if not discarded, then certainly shied away from. Although *Peyton Place* is able to have a young victimised female’s homicide

³⁴¹ Richard Dyer, ‘Four Films of Lana Turner’, p. 426.

rendered justifiable, the film is still very wary of celebrating this scenario, and ends instead with the reunion of the MacKenzies.

Thus the trial sequence of *Peyton Place* exemplifies its navigation of conflicting impulses throughout the film. The relinquishing of speech and authority to Dr. Swain demonstrates the patriarchal constructions underlying trial depiction that grant the white, middle-class male an unquestioned access to the court's modes of communication. However, this is countered by the consistent inclusion of moments that, as Moulds notes of the court scenes of literature, 'seems to favour not only the language of emotion but also the more marginalised speaker (the woman)'. The emotional preoccupations of Selena, Constance and Allison threaten to overwhelm the legal narrative, and the film gestures, particularly through Selena, to a construction of justice that challenges the court's own judicial process. I wish now to consider a film that presents a less compromised challenge to the court through a more rigorous engagement with the female point of view.

The Mother and The Law in *Madame X*

Madame X parallels *Peyton Place* in the general narrative context of its climactic trial sequence. The protagonist again acts as defendant, on trial for a crime that she has committed, and possessing knowledge pertaining to this crime (and shared with the spectator) that she wishes to keep from the courtroom. Once again the female and the law are placed at cross-purposes, encouraging a double-trial structure through their adversarial relationship. However *Madame X* provides a more consistent and radical critique of the law than *Peyton Place*, which I will locate in its uses of melodramatic formal strategies to produce intense states of emotion, and a more committed engagement with the female viewpoint, reflected in

the use of “excessive” devices that overwhelm the conventions of trial representation. Rafter argues that *Madame X* ‘may be the worst trial film ever made’.³⁴² However, it is in the extent to which the film diverges from the trial film model of representation in speaking to its own construction of justice that its achievement lies.

The generic status of *Madame X* is evident from the opening credits’ announcement of ‘Lana Turner as *Madame X*’, which serves to foreground a female star who is particularly associated with melodrama, and indicate that this female star will be the film’s protagonist. This is expressed not only through the above the title billing – a given considering Turner’s star status - but also in the phrasing that positions that star “as” the title character, and features a title that, by 1966, brings its own associations with a particular melodrama narrative.³⁴³ These factors in combination situate *Madame X* as a woman’s melodrama, but I wish to briefly look at them in isolation. The role of Turner’s star presence to understanding this particular text is important, especially given that, in contrast to *Peyton Place*, the star is the sole protagonist of the film.³⁴⁴ *Madame X* was produced towards the end of Turner’s star career, at a point when, as Richard Dyer notes, her films ‘seem in parts like mere illustrations of her life’.³⁴⁵ The public details of Turner’s own personal life, including a highly publicised murder trial in 1958 and a volatile relationship with her daughter,³⁴⁶ are woven into her film persona and affect films’

³⁴² Nicole Rafter, ‘American Criminal Trial Films’, p. 18.

³⁴³ The bold yellow font, styled in an imitation of elegant handwriting, and the lush musical score accompanying the credits also make clear the generic terrain of the film.

³⁴⁴ Although Turner is undoubtedly the bankable star name of the *Peyton Place* cast, my previous discussion demonstrated that strategies of audience identification and narrative focus are distributed among a larger number of characters.

³⁴⁵ Dyer, ‘Four Films of Lana Turner’, p. 410.

³⁴⁶ On April 14th 1958, Turner’s daughter Cheryl Crane stabbed and killed her mother’s boyfriend Johnny Stompanato. The matter was taken to an inquest, where it was ruled a justifiable homicide. These events, including Turner’s emotional testimony at the inquest, were highly publicised, and

uses of it. Turner as the suffering mother of the melodrama, inviting audience empathy while simultaneously punished for her excessive desires, is a narrative congruent with the star's off-screen persona,³⁴⁷ utilised in *Peyton Place* and *Imitation of Life*,³⁴⁸ and which reaches its apotheosis with *Madame X*.³⁴⁹

Audience expectations regarding *Madame X* also reflect the material's status as an existing property, a 1908 French stage play by Alexandre Bisson that had

have been said to have considerably boosted the box-office of *Peyton Place*, which was playing in theaters at the time. It is impossible to imagine that these events – which were rumoured to have inspired the novel *Where Love Has Gone* by Harold Robbins (1962) and its subsequent film adaptation, *Where Love Has Gone* (Dir: Edward Dmytryk, 1964) – were not on the minds of the filmmakers and audiences of *Madame X*.

³⁴⁷ The conflicting impulses of the public commentary, combining sympathy for and condemnation of Turner, are evident in this headline subsequent to Stompanato's death: "TRY THOUGH SHE DID, TURNER COULD NOT PROTECT CHERYL...TOO MANY FATHERS, TOO MUCH TROUBLE CREATED THE INEVITABLE TRAGEDY".

³⁴⁸ This film in particular features a line that serves as a summary of the Turner persona, uttered by her character Lora Meredith: "I want more. Everything. Maybe too much."

³⁴⁹ The following is a plot summary of the film: Holly Parker (Lana Turner), a former shopgirl, marries the aristocrat Clayton Anderson (John Forsythe) and moves to his family manor, where they live with his mother Estelle (Constance Bennett). The couple soon have a son, Clayton Jr. (Teddy Quinn), but Holly's happiness is compromised by Clayton's frequent absences in pursuit of a political career. Holly retreats into solitude, but is persuaded by Estelle to keep up her duties on the upper class social scene. In the process, Holly meets playboy Phil Benton (Ricardo Montalban), with whom she develops a romantic relationship. Phil is accidentally killed during an attempt by Holly to call off the relationship for the sake of her marriage and child, and a panicked Holly discovers that Estelle has been monitoring her actions and is aware of the affair. Estelle blackmails Holly into faking her own death so that the scandal resulting from Phil's death will not disgrace the Anderson family name. Holly reluctantly agrees, and her disappearance is arranged while on a boat trip with Clayton Jr. Holly sinks into depression, with the following years containing only a brief interlude of happiness with a European composer Christian Torben (John Van Dreelen). Holly flees Torben, unable to forge a new life without her son. She then becomes a prostitute in a variety of locations, meeting in Mexico a fellow American, Dan Sullivan (Burgess Meredith), who learns the truth of her identity and devises a plan to blackmail the Andersons. Under false pretences, he brings Holly to America, but when she learns of his plan, she shoots him dead. She is arrested and refuses to give her identity to the police, becoming in the process of signing of confession with an 'X' the eponymous Madame. Unbeknownst to either party, Holly's court-appointed attorney is her son (now played by Keir Dullea), on his first case. The trial begins, and over the course of proceedings the truth of Holly's identity is revealed to Estelle and Clayton Sr., before Holly herself realises her relationship to her attorney. Unwilling even now to disgrace the Andersons, Holly relinquishes her silence and gives testimony in which she explains her motivations without revealing to Clay Jr. (and the court) the secret of her identity. Clay's closing statement is a testament to Holly's motherly love. As the trial is adjourned for juror deliberations, Holly collapses. On her deathbed, she has a final interaction with her son. The pair form a close bond, but Holly keeps her secret and dies just before the verdict is to be announced. Father and son leave Holly's deathbed to return to the courtroom.

spawned four previous American screen adaptations.³⁵⁰ A presumed audience familiarity with the developments of the Madame X narrative is evident in the film's original trailer, which refers to the climactic developments ("in blazing headlines and sensational trial, she faced the world as Madame X"). The audience expects a climactic trial scene, but one in alignment with the conventions of the woman's melodrama (as opposed to the conventions of the more traditional trial films examined in my first chapter). This familiar narrative (the specificities of which I will discuss further shortly) is presented in this adaptation alongside the formal signifiers developed by the 1950s family melodrama. Douglas Sirk was attached to *Madame X* in its planning stages,³⁵¹ and the presence of several of Sirk's frequent collaborators from his Hollywood career, including not only Turner (the star of *Imitation of Life*), but producer Ross Hunter, musical composer Frank Skinner and cinematographer Russell Metty, all suggest that *Madame X* was attempting to recreate the commercially successful formula of Sirk's films, offering an emotional story to a predominantly female audience and employing a dramatic yet sumptuous mise-en-scène.

Thus several of the film's key contexts establish its generic alignment and offer ways to approach an analysis of it. One other crucial context is the specific type of narrative model it presents. *Madame X* is a paradigmatic example of the maternal melodrama subgenre, a term coined by Viviani in an article that used the 1920 and 1966 adaptations of Bisson's play to demarcate its birth and death

³⁵⁰ *Madame X* (Dir: George F. Marion, 1916), *Madame X* (Dir: Frank Lloyd, 1920), *Madame X* (Dir: Lionel Barrymore, 1929), and *Madame X* (Dir: Sam Wood, 1937).

³⁵¹ See Christian Viviani 'Who is Without Sin: the Maternal Melodrama in American Film, 1930-1939' [1980] in 'The Moving Image: Pathos and the Maternal' in Marcia Landy (ed.) *Imitations of Life: a reader on film and television melodrama*, (Detroit: Wayne State University Press, 1991), p. 170; and Jean-Loup Bourget, 'Sirk and the Critics', *Bright Lights Film Journal* (April 2005) <http://brightlightsfilm.com/sirk-and-the-critics/#.Vcdb5_IVikp> accessed 09 August 2015.

(respectively).³⁵² Viviani argues that the first adaptations of *Madame X* established the 'structural and dramaturgical' model of the maternal melodrama in the American cinema for the following decades, which he presents as follows:³⁵³

A woman is separated from her child, falls from her social class and founders in disgrace. The child grows up in respectability and enters established society [...] The mother watches the social rise of her child from afar; she cannot risk jeopardizing his fortunes by contamination with her own bad reputation. Chance draws them together again, and the partial or total rehabilitation of the mother is accomplished, often through a cathartic trial scene.³⁵⁴

This model fits particularly well with the other elements suggested by the film's star and by the broader generic field: the maternal melodrama's focus on female desire and suffering within a restricted, hierarchical social world which has seen it designated 'the paradigmatic type of the woman's film'.³⁵⁵ Other critics have considered the implications of this for the film's feminist potential. Doane considers the subgenre's prevalence to be a result of melodrama's close alignment 'with the delineation of a lack of social power [...] characteristic of the cultural positioning of women' subsequently arguing that from 'this point of view, it is not surprising that the social function most rigorously associated with femininity – that of motherhood – should form the focus of a group of films which exploit the pathetic effect'.³⁵⁶ Williams, despite acknowledging that there is a masochistic element to the female spectator's response to the suffering mother, refutes claims

³⁵² Prominent examples of the subgenre (in terms of initial popular response or subsequent appraisal) include *The Sin of Madelon Claudet* (Dir: Edgar Selwyn, 1931), the first two versions of *Stella Dallas* (Dir: Henry King, 1925; Dir: King Vidor, 1937), *The Great Lie* (Dir: Edmund Goulding, 1941) and *To Each His Own* (Dir: Mitchell Liesen, 1946).

³⁵³ Christian Viviani, 'Who is Without Sin', p. 171.

³⁵⁴ Ibid.

³⁵⁵ Mary Ann Doane *The Desire to Desire*, p. 73; quoted in Brenda Austin-Smith, 'The Ethics of Murder', p. 102.

³⁵⁶ Mary Ann Doane, 'The Moving Image: Pathos and the Maternal' in Marcia Landy (ed.) *Imitations of Life: a reader on film and television melodrama*, (Detroit: Wayne State University Press, 1991), p. 286.

that the maternal melodrama merely serves to punish the transgressive woman, arguing that it holds progressive potential through its simultaneous management of multiple points of view and subject positions. Williams maintains that '[r]ather than raging against a fate that the audience has learned to accept, the female hero often accepts a fate that the audience at least partially questions'.³⁵⁷ Williams argues that ultimately, 'the maternal melodrama presents a recognizable picture of woman's ambivalent position under patriarchy'.³⁵⁸ The prominence given to the trial in all of the adaptations of *Madame X* makes explicit this ambivalence by making the female subject to a patriarchal courtroom. I wish now to look at this particular adaptation in detail.

The struggles over identity against or within patriarchy that Lang sees as constitutive of melodrama's subject matter are evident throughout *Madame X*, beginning with its title. Holly Anderson is presented as an individual whose identity is continually reinvented and subject to the control of a series of male (and, in one crucial instance, female) characters, incorporating roles from wife and mother to society hostess and fallen woman. Although her refusal to forge any kind of positive new identity following her separation from Clay Jr. suggests a 'devaluation of the individual' at the expense of a maternal ideal, it also manifests as a refusal to perform the identities projected on to her by Christian and Dan. The commodification of Holly by men reaches its apotheosis in her eventual turn towards prostitution (it is at this point in the narrative that she refers to herself as "merchandise"), but this is merely the logical continuation of a theme throughout

³⁵⁷ Linda Williams "“Something Else besides a Mother”: *Stella Dallas* and the Maternal Melodrama' *Cinema Journal* 24:1 (Autumn, 1984), p. 22.

³⁵⁸ *Ibid.*, p. 23.

the narrative that begins with the scenes of life in the aristocratic Anderson family social world.

This world constitutes the repressive and superficial social sphere familiar to the melodrama, what Benton refers to as “the breeding ground of the shallow set” where “facades” hide the underlying toxicity. In this particular instance, it is class-consciousness which comes to the fore of the negative representation of the social world, and which lies at the root of Holly’s unhappiness. The opening scene of Holly’s arrival at the Anderson mansion immediately makes evident the distance of this world from her own background (she notes “and I thought I was living on a grand scale when I moved into a five room apartment”). The most telling of these opening moments revolves around the series of portraits of the male Anderson ancestors in the mansion’s hallway, which inspire Holly to joke to Clay “were all your ancestors men?” The Anderson lineage relies on both a suppression of female identity and a rigid, repeated construction of masculine identity that already suggests Holly’s fate in this environment. Her difference will be articulated by Benton, who tells Holly that “you’re a real, live human being. Clay’s a blueprint of the Anderson male” (although it is telling that, even here, Benton’s assertion is part of his own attempt to construct an idealised image of Holly). Subsequent montages of the Anderson lifestyle, featuring society page headlines that refer to Holly as a “socialite” underlines the extent to which the Andersons live under a public gaze, crucial to establishing the issues of class and scandal that structure the narrative. Holly’s essential incompatibility with this lifestyle is located in her desire for a “little red-frame house” referenced in the dialogue at numerous points (and integral in its repetitions to the film’s melodramatic mode of narration). But this desire is

not compatible with the governing expectations of the social sphere she finds herself in.³⁵⁹

The other crucial character in the development of this theme is Estelle, the only fellow female Anderson presented. An addition to the ‘Madame X’ narrative (no equivalent character appears in any of the preceding film versions), Estelle functions as a contrast to Holly; she has subsumed her own identity into the patriarchal status constructions demanded by the Anderson name. Her advice to Holly regarding Clayton’s absences early in the narrative – reminding her of “social obligations” and adding that “Anderson wives must learn to wait” – does not acknowledge Holly’s emotional state (which is conveyed partly through shots of Holly framed in windows and mirrors, a typical melodramatic device for expressing domestic entrapment) but proffers her an inherited model of behaviour that denies her any autonomy. Estelle’s dissatisfaction with Holly, alluded to throughout the early part of the narrative, is articulated in their confrontation following Benton’s death, when her mother-in-law states that “I knew what you were the moment I laid eyes on you [...] you’ve always been a little shopgirl from San Francisco.” Estelle’s absolute adherence to structures of class division and maintenance of social position blinds her to Holly’s positive qualities, and its manifestation in the relentless avoidance of scandal is more destructive than the scandalous act itself. It is during Estelle’s machinations to get rid of Holly that the specific connotations of a trial to

³⁵⁹ *Madame X* belongs to another model of family melodrama in which the middle-class milieu is replaced with an upper-class environment in which status is defined by distinctions between inherited and acquired wealth (or “old” and “new” money). Examples include *Written on the Wind*, *Cat on a Hot Tin Roof* (Dir: Richard Brooks, 1958) and *Home From the Hill* (Dir: Vincente Minnelli, 1960). Ellen Seiter notes that within these narrative models ‘upward social mobility affects the happiness of characters’ [see Ellen Seiter, ‘Men, Sex, and Money in Recent Family Melodrama’ in Marcia Landy (ed.) *Imitations of Life: a reader on film and television melodrama*, (Detroit: Wayne State University Press, 1991), p. 526.].

the film's melodramatic social world is established. When convincing Holly to fake her death and save the Anderson name, Estelle mentions the hypothetical "unsavoury trial" that would ensue following Phil's death. The trial is situated primarily in relation to its role in the destruction of social position rather than as a platform for justice.

Throughout these events audience identification remains with Holly, whose point of view is, as per the woman's melodrama, aligned with a prioritisation of the emotional that stands in contrast to the "façade"-obsessed social world.

Throughout the film the mise-en-scène, corresponding to Cook's conceptualisation of woman's film style, expresses Holly's emotional state through uses of lighting, colour, framing, scoring, setting (including multiple instances of pathetic fallacy) and more overt instances of subjectivisation achieved through voiceover narration (the voices of Clay Jr. and Sr. heard on the soundtrack over shots of Holly alone on a train, visibly reacting to these "memories") and hallucinatory interludes that the spectator experiences with Holly (including a shot of Clay Jr. as a child that a subsequent shot "reveals" to both Holly and the audience to be a different actor/character). Emotion, both in its depiction and production, is crucial to the meanings of *Madame X* specifically and the maternal melodrama generally, with Doane arguing that:

Of the various subgenres of the woman's film, the maternal melodrama is the one which appears to fully earn the label "weepie." The plight of the mother with respect to her child, the necessary separations, losses, and humiliations she must suffer are often moving and often "move" the spectator to tears. The films obsessively structure themselves around just-missed moments, recognitions which occur "too late," and blockages of communication which might have been avoided.³⁶⁰

³⁶⁰ Mary Ann Doane, 'The Moving Image', p. 299.

These moments, recognitions and blockages are crucial to the narration of *Madame X*. Steve Neale, considering the tear-inducing pathos of the melodrama, argues that the films often utilise a ‘hierarchical point of view structure’ in which the spectator knows more than the characters,³⁶¹ and a differentiation between ‘optical point of view and character knowledge’ an add so that acts of seeing and recognising become distinguished from one another.³⁶² These discrepancies in knowledge and point of view must appear alongside the second characteristic of melodrama’s narrative mode, which is a recognition of ‘temporal irreversibility’ – the ‘too late’ referred to by Doane - in order to produce the poignancy and pathos that induce tears.

This hierarchical point of view structure will reach a highly elaborated (and thus especially emotional) climax in *Madame X*’s trial scene, which is why I have introduced its qualities here. But it is established earlier in the film during Holly’s final interactions with her husband and son. The final interaction with Clay Sr. over the telephone exemplifies the play with character knowledge, with the device of long-distance communication giving the moment an added layer of pathos through Clay’s inability to see Holly in this scenario (thus giving the spectator knowledge that is denied Clay; not only does the spectator know the truth that Clay does not, we see the emotional cues given by Holly that he cannot). A slightly different effect is at work during Holly’s last scene with Clay Jr. as a child. Clay Jr. seems to on some level intuit the ensuing events of which he has no external knowledge, asking “what is ‘to die?’” and hysterically telling Holly he misses her when she comes to his room to say goodnight. However, this does not undermine the pathos of the

³⁶¹ Steve Neale ‘Melodrama and tears’ *Screen* 27.6 (1986), p. 12.

³⁶² *Ibid*, p. 10.

moment. Rather, it exacerbates it through recourse to a mother/son bond that goes beyond reason and language, that is located firmly in the imaginary sphere (as per Lang's argument), and which will reappear in the final stages of the narrative, including the trial, where it will overwhelm the legal narrative's structures of reason.

The emotional power of the mother/son bond forms a paradoxical relationship to Clay Jr's subsequent development. On one level, the separation of Holly and Clay Jr. exemplifies Williams' psychoanalytic reading of the maternal melodrama's narrative development, in that the male child 'separates from his mother to identify with his father and take on a masculine identity of greater autonomy'.³⁶³ This parallels the narrative development of *Madame X*, with Clay following his father into the masculinised profession of law and in a sense following the "blueprint" of the Anderson male. It is telling that the two professions associated with the male Andersons are law and politics, both professions that propel the individual into the public sphere and exemplify a traditional, specifically masculine engagement with the social world, aligned with a command of language, which stands in direct opposition to the feminine domestic sphere. Yet there also exists an acknowledgment that Clay Jr's specific choices in his social ascent are in one sense aligned with the female (or at least the female's sacrifice), in a mechanism similar to Selena's attempted sacrifice for the sake of Ted's legal career in *Peyton Place*. When Estelle, in a scene prior to the trial, asks Clay Jr. "Whatever possessed an Anderson to go into criminal law?", his response "Because I'm 50% Parker" again suggests the hidden reliance of the male's ascension to an

³⁶³ Linda Williams, "Something Else Besides a Mother", p. 9.

autonomous identity upon a female inheritance (and, unbeknownst to Clay, a female sacrifice).

The scenes featured between Holly's murder of Dan and the courtroom trial reintroduce the Andersons (Clays Jr. and Sr., and Estelle) into the narrative, thus setting into motion the series of recognitions and misrecognitions that the differentiation of character and spectator knowledge leads us to expect from the film's final act. However, a choice is made here that differs from the previous classical Hollywood adaptation of *Madame X* and which I believe is telling. In the 1937 version, the spectator is made aware of the relationship of the attorney to his client prior to their first interaction with each other. However, in this version, the initial meeting of client and attorney does not give the spectator this additional level of knowledge over the characters. This choice, I would argue, entails less problematisation of the female point of view; denying the spectator omniscience allows us to experience the same process of seeing then recognising that increases our empathy for all of the characters. The hierarchical point of view structure is also reliant upon the matter of Holly's silence. If she reveals anything about her history or her motives for the crime prior to the trial, then the precise moments of recognition upon which the emotional climax depends will not appear. She must become "Madame X".

Yet, the specific treatment of Holly's silence imbues it with a further resonance that I wish to consider. It is made clear during Holly's medical examination that her initial, total silence is not the result of catatonia but a wilful tactic made by Holly (when the doctor mentions the "psycho ward" in front of her, she speaks, agreeing to sign a confession). Thus Holly's subsequent recourse to silence in the courtroom is figured not as an unambiguous marker of melodrama's

passive protagonist, but as Holly's challenge to the patriarchal power-structures of the court. It is, as Austin-Smith asserts, an excessive silence, one that poses a challenge to the court's methods of inquiry, evaluation and judgment. Such silences often function as the female's main challenge to the court, featuring also in *Confession* and *Outrage*. They reveal the unquestioned authority granted language by the courtroom, and language's alignment with a patriarchal construction of law and justice that marginalises the female.

However, Holly's silence for the initial portion of the courtroom scene also permits its initial adherence to a more conventional use of the trial form. The first few minutes of the trial scene are structured around Clay Jr's courtroom performance, with the film drawing heavily upon the conventions of the trial film I identified in the first chapter. The transition to the courtroom scene demonstrates this, fading from an image of Clay Jr. having just realised a trial strategy (to "try Dan Sullivan for his own murder") to a medium shot of Holly, her expression blank, staring ahead of herself as the prosecutor's opening statement is heard on the soundtrack.

Holly's blankness and the rounded depiction of the attorney allows narrative emphasis at this point to be directed towards Clay Jr's courtroom prowess,³⁶⁴ and the juxtaposition of the preliminary discussion of trial tactics with the trial itself guides the viewer towards this structure of identification. The tropes employed in *The Young Philadelphians* as a way of signifying the inexperienced lawyer's courtroom skill reappear, including the judge ruling in Clay's favour after an

³⁶⁴ Compare the characterisation of Clay Jr. to the more typical 'flat' characterisations of the judge (Carl Benton Reid) and prosecutor (Warren Stevens), neither of whom we see outside of the courtroom.

objection is posed by the attorney, and reaction shots of the prideful Clay Sr. and Estelle. The treatment of the witness examinations performs a similar function, allowing the spectator to see how the strategies introduced in the preceding sequence serve Clay Jr's case for the defence. The examinations are presented with a conventional economy through elliptical cuts or having the examination and cross-examination of a single witness depicted within a single take. This befits the non-emotional investment of the witness characters and the prioritisation (at this point in the sequence) of the legal narrative. Each of the four initial witnesses provides, from Clay's questioning, information that collectively constitutes a case for the defence: the first witness establishes that Holly appeared to have gone into shock; the second that there were no witnesses to the actual murder; the third that Dan Sullivan had a history of perpetrating crimes against women; and the fourth that Holly is addicted to absinthe.

The fourth witness is Dr. Evans (Frank Maxwell), whose presence functions similarly to Dr. Swain's in *Peyton Place*. He provides a perspective that bridges the gap between the procedural rigidity of the courtroom and the excessively emotional perspective of the female. The depiction of his testimony also climaxes in the crucial moment that re-aligns the point of view of the scene with the female protagonist and thus reconstructs the dramaturgical and narrative emphases of the subsequent developments. Clay Jr. asks Dr. Evans whether "it would be possible for an individual to be legally sane but medically insane?" and the doctor responds "Tragically so".³⁶⁵ For the third time the prosecutor proceeds to object to Clayton's line of questioning, stating firmly that the "medical sanity of the defendant has no bearing on this case." Beginning on a shot of the prosecutor behind his desk, the

³⁶⁵ A response that leaves no doubt where the doctor's – and the film's – sympathies lie.

camera tracks right to follow him as he walks towards the out-of-frame Clayton, but then halts this movement and tracks in instead on a now disturbed looking Holly. The two attorneys' argument and the banging of the judge's gavel are heard, but over a close-up of Holly, who begins to twitch nervously. Non-diegetic scoring begins to stir, low in the mix but underlining Holly's unease. This is the first use of the non-diegetic scoring that will henceforth be employed throughout the sequence. I have noted how uncommon the use of non-diegetic scoring is in the courtroom sequence generally,³⁶⁶ and in this instance it is clearly aligned with Holly's experience in the courtroom, signifying a mental disturbance that anticipates her subsequent breakdown.

Holly's breakdown and outburst is important not only in terms of story (it leads to the recognition by her former husband and mother-in-law and thus produces a tonal shift in the emphases of the sequence) but because, in aligning itself so concretely with Holly's point of view through its representational strategies, it presents a radical rupture of the respectful form and objective point of view structures implicitly demanded by the dominant trial depiction paradigm. The score leads the viewer into a subjective representation of Holly's delirium. The camera remains on a close-up of Holly as the two lawyers argue, but now superimposes under the shot an image of the two attorneys and the judge (Fig. 62). The angle of this superimposed image begins to cant, and a third superimposed shot, a whip pan of the "spinning" courtroom, further augments the disorientation that the film is clearly aligning with Holly's interior state. A close-up image of the judge's gavel being pounded appears alongside the other superimposed images on the right of the frame, and Holly looks continually more disturbed as the argument

³⁶⁶ See Chapter One, p. 200-202.

of the attorneys blends into an inaudible noise (Fig. 63). The scoring continues but at a gradually increasing volume, intermingling with the diegetic cacophony. Finally, Holly shouts “Stop it!” and leaps upwards out of frame, ending this nightmarish interlude. There is a cut to a shot of the judge, the two lawyers and the witness all turning to look at the finally responsive Holly, startled by her reponsiveness. Holly leans forward and moves around the desk, grasping it as if weak as she cries “Stop it! I can’t bear any more.” The moment becomes doubly excessive; both the female’s subjectivity and the female’s outburst are ruptures to the respectful form of the trial.



Figs. 62 (top) and 63 (bottom)

The following moments set into motion the series of changes in the film’s hierarchical point of view structure, as several central characters attain a level of knowledge held by the spectator; they see *and* recognise. The multiplicity of character viewpoints included (Holly, Clay Sr. and Estelle all undergo realisations of other identities in the subsequent moments) intensifies the empathetic emotional

engagement with the sequence, shifting focus away from the procedural narrative and into the melodramatic web of private looks and emotional revelations. Upon Holly's outburst, there is a cut to a close-up of Estelle, who leans forward in alarm, her eyes widened. The following long shot is aligned with Estelle's point of view as the camera zooms in to a reframed medium shot of Holly, who hysterically asks "How long must I wait?" before convulsing as Clay Jr. rushes to her side. Estelle's recognition of Holly at this moment is pivotal. The character who forced Holly to abandon her family now becomes the only character (other than Holly) to be entirely aware of the situation of 'Madame X'. Ignoring the judge's requests for her to "compose herself", Holly leaps out of Clayton's arms as the music builds to a crescendo, and cries out to the judge "Take my life! The sooner, the better, but take it!" underlining the sacrificial element of her actions. There is murmuring from the courtroom throughout, and the non-diegetic scoring continues, which, when combined with Holly's own failure to "compose herself" demonstrates the excess (both diegetic and non-diegetic) on display.

The emotional outburst cannot be contained within the courtroom ritual, and a recess is called in order to prevent any further excesses. The recess cements the scene's tonal shift as the procedural and 'first time lawyer' narrative focus of the pre-recess portion contrasts with the domestic drama of recognition and reunion post-recess. It is worth noting that Dr. Evans appears in the recess interlude, tending to Holly at her jail cell bedside - his ability to work across these spaces demonstrates his alignment with a common sense compassion and understanding that is implicitly lacking in the institution of the law. The doctor informs Clay that Holly is "worn out in spirit as well as body. She can't endure much more". This line

begins to prepare the audience for Holly's death, a fate that escalates the dramatic stakes of the subsequent revelations and recognitions.

The audience returns to the courtroom with Holly. The following recognitions (of Holly by Clay Sr. and vice versa, and of son by mother) occur alongside the prosecutor's closing statement. I wish to pay close attention to this segment as it demonstrates clearly the infiltration of trial convention by the concerns of the woman's melodrama. The prosecutor's closing statement is treated in a conventional manner at its outset, with a medium long shot of the prosecutor stood before the jury box. The shot places the spectator within the jury box with the prosecutor frontally shot on the left of frame – representational strategies that correspond with strategies of the trial film as outlined by Clover, spatially positioning the spectator in the role of juror. Yet the conventional development is eschewed when the subsequent edits shift the spectator's attention to a series of close-ups that cut between Holly and Clay Sr., depicting their hesitant mutual recognition as the prosecutor continues, heard on the soundtrack but off-screen. The placement of this moment outside or beyond the legal narrative is visualised by the arcing camera movement that moves with Holly as she turns back to face the courtroom stage, her expression nevertheless conveying her preoccupation (Figs. 64-65).



Figs. 64 (top) and 65 (bottom)

There is a cut in to a close-up of Holly, followed by a shot of the prosecutor stood next to the jury box and gesturing to the off-screen space occupied by Holly and Clay as he states that “the defence attorney comes before us on his first case, young and eager, son of a brilliant and famous father, and I’m sure Governor Anderson...”. There is a cut to the recurrent two-shot composition of the defence’s bench with Clay Jr on the left of frame and Holly on the right as the prosecution continues “...is proud of the resourceful fight that Clayton Anderson Jr. has waged in this courtroom.” There is a flicker of realisation on Holly’s face, before the camera cuts in to a close-up of her as she turns her head to Clay Jr. with a stunned look accompanied by a sting from the score. Another set of looks is exchanged between Clay Sr. and Holly (Figs 66-67); their expressions are pained, and Clay Sr. moves his weight forward and opens his mouth as if to speak in an impotent gesture that captures the impossibility of any dynamic action within the scenario. In keeping with the conventions of the melodrama, the immediate social environment acts as a blockage to the desired action. The remainder of the prosecutor’s closing

statement is relegated to off-screen sound as a series of two-shots and close-ups cut between the figures in the domestic drama occurring concurrently.

Following the initial shock of Holly's realisation(s), the tone shifts in order to convey the overwhelming maternal love felt by Holly that is juxtaposed with the prosecutor's concurrent damning critique of her character. Her expression softens and the gentle theme that has been featured in earlier scenes depicting Holly's relationship with Clay begins to play. While the prosecutor states that "Madame X is a murderess," a medium close-up of Holly shows her begin to smile, her gaze still fixed upon her son (Fig. 68), followed by a cut to a subjective shot (from Holly's perspective) of Clay Jr. in profile (Fig. 69). The contrasts between the Holly the spectator sees in these moments and the character being built in the court case are rendered ironic, and simultaneously demonstrate both the primacy of the emotional to the female point of view (which the use of subjective shots aligns the spectator with) and the inefficiency of the legal point of view. Prior to this moment, the primary source of irony has been that we knew what none of the characters did – that Holly's defence attorney is her son. This moment entails the point in the narrative at which Holly's level of knowledge and point of view comes to parallel ours. This crucially alters our reaction to the sequence. The discrepancies in point of view and knowledge remain, but it is now primarily the court (as embodied here by the prosecutor) whose knowledge and point of view is seen to be limited. Irony emerges at the expense of the law; the deliberate juxtaposition of the prosecutor's "murderess" narrative and Holly's maternal feeling problematizes the legal, rather than the female, point of view.



Figs. 66 (top) and 67 (bottom)



Figs. 68 (top) and 69 (bottom)

Holly's realisation leads to a penultimate inflection of the courtroom procedural convention. She asks to take to the stand just before Clay Jr. is to give his closing statement to the jury, stating in response to Clay's concern that she is "not prepared as a witness" that "I know exactly what I want to say". The audience is implicitly aware that her unprepared statement (the notion of speaking from the

heart pivotal to the female melodrama's concerns with expressivity) will convey the emotional truth even though Holly will not reveal to Clay that he is the son she is protecting. Thus Holly takes to the stand, accompanied by a supportive and unknowing Clayton. She delivers her testimony, explaining to Clay that he alone has made her silence impossible before begging his forgiveness for her prior lack of cooperation. She asks him "not to fight any longer", explaining that she killed Dan Sullivan because he "was going to tell my child that I was alive, and what I'd become." She states that "I don't have much to leave my son. Only a lie. That his mother was clean, and good." When asked by Clayton "Why did you leave your family?" Holly states that "I wasn't suitable. I really wasn't. I wonder why it took me so long to see it?" She concludes, her gaze fixed upon Clayton, that "I killed Dan Sullivan. To keep my son from knowing about me. I'm not sorry. And if time could turn back, I'd kill him again. That's the truth, child. The truth."

Apart from an early acknowledgment of the spectators in front of her, and a few instances of turning to face the judge, this testimony has Holly direct her statement and her gaze specifically to Clay Jr. The shot sequence is limited mostly to alternating close-ups of Holly and Clay Jr. and reaction shots of the elder Clayton and Estelle. There is no sense of a broader public gaze, especially when combined with the specificity of the speech's address. Although Holly's remarks concerning her respectability and cleanliness suggest that she has internalised the attitudes that led her to separate from the Andersons initially, the reaction shots of the visibly upset Estelle complicate the film's affirmation of these remarks. The sequence also works to produce the intensified pathos of the maternal melodrama. Unlike the expressive reaction shots of Clay Sr. and Estelle during Holly's speech, which convey their overwhelming emotions, the reaction shots of Clay Jr. do not display

this same intensity of feeling. He is listening to Holly's narrative, but he cannot comprehend its relevance to him; the acts of seeing and recognising are differentiated, increasing the pathetic effect. Even though Holly has technically told Clay and the courtroom "the truth," we know that there is more that she cannot tell; the telling word in her final sentence is not "truth" but the "child" that follows.

Rather than granting Holly the final word in the courtroom sequence, *Madame X* provides one further melodramatic inflection of the courtroom procedure as, immediately upon the end of Holly's testimony, there is a fade to Clay's closing statement. I have outlined how this element of trial procedure is given a particular dramatic emphasis in the golden age trial films, but it is here inflected by the terms of the maternal melodrama, the content of the statement favouring emotion over reason, rather than attempting to unify the two under an overarching justice model, and making explicit the affirmation of a model of justice that diverges from the court's. This closing statement also underlines the scene's pathos as Clayton articulates his admiration and love for the woman whom he will never realise is his mother. The sincerity of Clay's speech, which must be conveyed due to the connotations of lawyering-as-acting (and the ethical ambivalence entailed) that I outlined earlier,³⁶⁷ is established by invoking the notion of the unrehearsed, as Clay opens by telling the jury that "There is a speech I was going to make, but I can't make it now. Not after those simple, heart-breaking words of hers".³⁶⁸ Reaction shots of the distraught Clay Sr. and Estelle and a proud yet tremulous Holly punctuate the subsequent statement, perhaps most significantly (in

³⁶⁷ See Chapter One, p. 78-79.

³⁶⁸ The fact that Clay has been sympathetically characterised outside of the courtroom also guides the spectator to view this statement as truth rather than part of an attorney's courtroom "performance".

keeping with the intensifying pathos of the scenario) the close-up of Holly beaming with pride, tearful and trembling as Clay tells the jury that “Her son will never know how deeply he is loved.”

The content of this closing statement is structured entirely around considerations of the maternal, invoked in opposition to the court’s constructions of law and justice in a manner that evokes the distinctions between natural and positive law. The love of the mother is aligned with a natural ideal of law, these qualities asserted by Clay Jr.’s parallel of Madame X’s crime with the violent acts employed by the “lioness” and the “mother bear” in order to protect their young. This construction of natural law appealed to is also, unsurprisingly, aligned with the emotional. Clay states that ‘There is a point, at which even justice is unjust’ [...] Justice must be fair. It must be merciful. It must be understanding.” At the point in which the golden age trial films typically present and affirm a standardized model of justice, a new construction of justice is being appealed to that is in alignment with the point of view of the melodrama (prioritising emotion). This closing statement exemplifies what Austin-Smith identifies as the melodrama’s revelation of the law’s ‘limitations when it is confronted with an agent whose sacrificial motive for violence cannot be accommodated to it, but to which it must accommodate itself if justice is to be served’. The melodrama’s role as an aesthetic of justice constructs a model of justice that is aligned with the maternal and the emotional.

The trial procedure draws to a close as the court is adjourned for juror deliberations. But as Holly and Clay stand up to leave the courtroom, Holly bends forward in pain. *Madame X*’s final scene will not take place within the courtroom, but will depict Clay Jr. at Holly’s deathbed, still unaware of the truth regarding her

identity. The outcome of the trial is not depicted and the spectator will not be made aware of the jury's verdict. The death of the protagonist could be seen at least in part as a narrative development necessitated by censorship. While we may wish to see Holly freed, she is nevertheless guilty of (and unrepentant for) the murder of Dan Sullivan, and thus her death allows for a nobler and more tragic resolution for the character. However, the death also demonstrates the lack of importance the trial procedure has had, with the courtroom simply providing the means through which 'Madame X' could finally tell her story and reunite with her son. Their final exchanges provide further possibilities for the production of emotion through irony and pathos, especially when the dialogue returns to the motif of the "little red-frame house" ("Did you have a house like that?" Clay Jr. asks. "Almost" replies his mother).

Now that these goals have been achieved, the story of *Madame X*, and of Holly Anderson, is complete, and the film ends with the elder Clayton coaxing his son back to the courtroom for the reading of the jury's verdict. "The jury is ready to come back" he says. "You're going to win this case, son." Clay replies "It doesn't matter now." His final lines demonstrate the film's complete surrender to the Imaginary sphere as he turns to his father and states "I don't know why, but I loved her. From the moment I saw her, I loved her." Clay's illogical, purely emotional recognition of his mother – "I don't know why, but I loved her" – recalls his parting moments with Holly as a child. This recognition goes beyond language, beyond reason and intellect, and speaks instead to other ways of seeing, communicating, and judging to which the court has no access. Within this context, the court's verdict is rendered redundant. It speaks to a model of justice which is not the one that the film, by this point, has affirmed so thoroughly.

Thus *Madame X* succeeds where *Peyton Place* fails in overwhelming the dominant voice of law through recourse to the other voice of melodrama. The dominance of our alignment with Holly's subjectivity, and the manner in which the legal point of view becomes increasingly deficient over the course of the trial, guide the sequence. The conventions of cinematic trial procedure are employed, but are consistently figured as deficient in relation to the emotional point of view: the language of emotion, shared by Holly and the spectator. The female-centred melodrama's challenge to the dominant structures of the courtroom (and of courtroom representation) is thoroughly enacted, demarcating the female protagonist not simply as the suffering passive heroine of melodrama, but as a justice figure who struggles valiantly against the patriarchal courtroom.

4. Disorder and the Caught: The Courtroom Trial Sequence in Film Noir

My research has identified the law noir, a form that critiques the American trial system through its use of the double-trial structure. I wish now to pay more attention to the interaction between the trial convention and the strategies of noir as a broader genre with its own structures of representing law, crime, justice, society and the individual. I will begin to conceptualise this interaction by considering the field of noir criticism. I will then look at two deliberately oblique uses of the trial form in noir (in *Scarlet Street* and *Phantom Lady*), before analysing in detail the subversion and exaggeration of dominant courtroom representation exhibited through the strategies of noir in two films, *Stranger on the Third Floor* and *The Lady from Shanghai*.

Defining Noir

The field of literature on film noir is vast, and an interest in noir has persisted in film studies. As a term, noir has been applied within an even greater array of contexts than melodrama.³⁶⁹ This means that much noir criticism takes on an aspect of metacritique (including Naremore, but also evident in work by Ewing [1987], Neale [2000] and Langford [2005]), studying prior criticism's conceptualisations, contexts and related terminology at least as much as film texts. However, as my methodological focus is on textual analysis, I intend to deal with literature that looks predominantly at textual aspects of noir: issues of genre, style, narrative, content and representation. A thorough examination of the field is beyond

³⁶⁹ In the space of one book Naremore (1998) examines noir as an idea (or 'discursive construct'), within contexts political (as a vehicle for post-WWII left-wing politics) and economic (discussing the centrality of B-movie production contexts to noir convention and classification), in terms of its racial representation, and as an ongoing cross-media concept.

the remit of this project, and so I intend to deal with a number of central and interlocking issues, including noir's generic status, its most consistently identifiable features, and its assumed difference from conventional forms in Hollywood cinema. I will then consider how these aforementioned issues offer particular ways of considering the interaction of noir with the trial convention.

To consider film noir as a group of films with a set of constitutive elements is to return to the notions of genre and legibility I have examined elsewhere. A consideration of noir benefits from the same caveat of classification I applied to the social problem film using the work of Stanley Cavell; attempting to identify genre on the basis of the presence of an immutable set of elements is unproductive. It suffices to say that the elements of noir I shall discuss are not essential features that fit together to form some complete picture. Rather these elements exist in complex combinations across examples of the form. Some appear more often than others, some are less common, and none are entirely exclusive to the film noir canon.

Yet the issue of whether noir constitutes a genre remains one of the key areas of debate within the field. Even early English-language criticism on noir disagrees over its generic status; Higham and Greenberg (1968) argue that the matching of a specific visual style with stories of fatal interaction between the sexes gave noir 'its completeness as a genre',³⁷⁰ whereas Schrader (1972) explicitly refutes the notion of noir as genre, situating it as a moment in film history as well as a cinematic mood.³⁷¹ Bordwell et al. (1985), Neale (2000) and Langford (2005) have noted, and to varying degrees criticised, the invention of noir by critics as an

³⁷⁰ Charles Higham and Joel Greenberg, 'Noir Cinema' in Silver and Ursini (eds.) *Film Noir Reader*. (New York: Limelight Editions, 2000), p. 28.

³⁷¹ Paul Schrader, 'Notes on *Film Noir*' in Silver and Ursini (eds.) *Film Noir Reader*. Eds: Silver and Ursini (New York: Limelight Editions, 2000), pp. 53-64.

after the fact classification of a heterogeneous group of films. I find myself inclined to agree with Walker, who argues that:

The issue of whether the *noir* cycle constitutes a genre is not very interesting: it all depends on how genre is defined, and the fact that it was not a genre for the Hollywood studios and filmmakers at the time is not a valid argument against its being considered one in retrospect.³⁷²

However, I do not wish to sidestep this question entirely, as the issues that have circulated around it are pertinent to my own project. Thinking about the fluidity of noir's generic framework, for example, is beneficial to understanding the interaction of noir and the trial form. Many studies of noir have focused on genre hybridity and the interaction of the noir mode with other generic frameworks. Polan (1985) and Krutnik (1991) both posit the specificity of the film noir in its modifications of the hard-boiled detective novel literary tradition, and work has located noir elements across classical Hollywood genres (including the western³⁷³ and the horror film³⁷⁴). No film relies solely on a homogenized set of conventions particular to a single genre, and I would argue that, whether noir is posited as a distinct genre or a mode/mood/style/cycle etc., it strikingly and fairly consistently inflects the conventions of the trial form when trial sequences do appear within its corpus. Considering the interaction of the two cinematic traditions of film noir and courtroom depiction may well provide us with a keener understanding of the particularities of both.

³⁷² Michael Walker, 'Film Noir: An Introduction', p. 38.

³⁷³ See James Ursini, 'Noir Westerns' in Silver and Ursini (eds.), *Film Noir Reader 4*, (New Jersey: Limelight Editions, 2004), pp. 247-260; and Robin Wood, 'Rancho Notorious (1952): A Noir Western in Color' in *Film Noir Reader 4*, pp. 261-276.

³⁷⁴ Paul Meehan, *Horror Noir: where cinema's dark sisters met* (Jefferson, N.C.; McFarland & Co., 2011).

It is worth establishing what patterns of representation critics have identified in noir. Generally, the basic tenet of the noir story (to again borrow Cavell's terminology) is seen to be the presence of crime, considered by Borde and Chaumeton (1955) as 'its most constant characteristic' and consistently featured in definitions since.³⁷⁵ Smith adds to the foundation of crime other 'left-handed forms of human endeavor' such as adultery, violence, and corruption,³⁷⁶ a useful addition that gestures towards the particularities of the milieus of noir: settings of pervasive badness. The particular relevance of noir to my topic begins to reveal itself. Noir narratives require the presence of crime in a way that melodrama and the social problem genres do not. But noir is also different from the crime film genre. It is the treatment of crime that contributes to noir's specificity, and suggests its uneasy relationship to the dominant patterns of representing the courtroom trial.

Michael Walker differentiates noir from earlier crime films through 'the hero's entanglement in the passions of the criminal world', a formulation which brings us closer to the developments of the noir story.³⁷⁷ Walker's inventory of the key features of film noir also includes its 'distinctive [...] visual style, an unusual narrative complexity [and] a generally more critical and subversive view of American ideology than the norm',³⁷⁸ all features that are frequently evoked elsewhere and which I will discuss individually in more detail shortly. But Walker's elaboration of the aforementioned 'entanglement' at the heart of noir narratives is

³⁷⁵ Raymond Borde and Étienne Chaumeton, 'Towards a Definition of *Film Noir*' in Silver and Ursini (eds.) *Film Noir Reader*. (New York: Limelight Editions, 2000), p. 19.

³⁷⁶ Imogen Sara Smith, 'In Lonely Places: Film Noir Outside the City', *Bright Lights Film Journal*, (August 2009), <<http://www.brightlightsfilm.com/65/65noir.php>>, accessed 11 July 2015.

³⁷⁷ Michael Walker, 'Film Noir: Introduction' in Cameron (ed.) *The Movie Book of Film Noir* (United Kingdom: Studio Vista, 1994), p. 8.

³⁷⁸ Ibid.

most relevant to my discussion. Walker considers the relation the hero of noir bears to the chaotic, criminal ‘noir world’ he or she is plunged into, arguing that

The *noir* world and the hero or heroine’s interaction with it are central to what is distinctive about *film noir*. At the beginning of the story, the protagonist is leading a safe, ordinary life in the ‘respectable world’. [...] Then, as the result of a chance meeting or event, or an act of villainy, or – in the private-eye films – a seemingly simple commission, he/she is plunged into the dangers of the *noir* world.³⁷⁹

I think this is a good narrative model (even though, as Walker himself admits, it cannot account for all examples of film noir) as it is broadly applicable and convincingly related by Walker to another commonly identified feature of noir, its focus on the hero’s subjectivity. Walker relates oft-discussed noir devices to this focus, arguing for instance that ‘the subjective voiceover personalises the experience of the recollected past in a very direct way, contributing both thoughts and feelings to the narrative’ and that ‘the noir world is reinflected, through the flashback structure, as a personal nightmare’.³⁸⁰ The focus on interiority in the genre means that the noir world, Walker argues, can be said to have ‘moved inside the disturbed protagonist’ over the course of the narrative.³⁸¹ The subjectivised narratives of noir (noted also by Frank Krutnik [1991] and Neale [2000]), have been related to the strategies of the family melodrama (both genres being influenced by the popularisation of psychoanalysis during the mid-twentieth century) and have even been considered the gendered flipside of the women’s melodrama, referred to by Jacobowitz (1992) and Staiger (2008), for example, as male melodrama. Walker argues that ‘the interaction with the noir world also

³⁷⁹ Ibid., p. 22.

³⁸⁰ Ibid., p. 23.

³⁸¹ Ibid., p. 15.

reveals a fundamental crisis in male control, and, behind this, in Dyer's words, 'an anxiety over the existence and definition of masculinity and normality'.³⁸² To consider this in relation to Cook's conceptualisation of the woman's film,³⁸³ one could argue that, in noir, it is the male point of view which is 'problematized'.

Indeed this subjectivising can also be said to entail a dramatic mise-en-scène analogous to that of the melodrama. Place and Peterson identify a number of visual motifs in film noir, including low-key lighting, scenes set at night and shot "night for night", a considerable depth of field (and related use of wide-angle lens photography), and 'bizarre' imbalanced compositions,³⁸⁴ that they argue constitute stylistic 'distortions and disruptions' that visually parallel the moral relativism of the characters.³⁸⁵ It is worth once again clarifying that these stylistic elements (and their identified meanings) are not essential characteristics of film noir. But identifying distortions and disruptions of the respectful form associated with courtroom convention can be useful to beginning to identify noir's play with these conventions. I maintain that there are patterns of stylistic rupture to the respectful form in the courtroom scenes of film noir that range from the minor ruptures of *They Won't Believe Me*, *The File on Thelma Jordan* (Dir: Robert Siodmak, 1950) and *Angel Face* (Dir: Otto Preminger, 1952) to the major stylistic interventions of this chapter's case studies. Not all of these stylistic elements are consistently present and they are not all foregrounded to the same extent, but their meanings and prominence *as* ruptures to the conventional form are consistent. It should also be

³⁸² Richard Dyer, 'Resistance Through Charisma: Rita Hayworth and Gilda' [1978]; quoted in Michael Walker, *Film Noir: An Introduction*, p. 22.

³⁸³ See Chapter Three, pp 192-194.

³⁸⁴ Janey Ann Place and Lowell S. Peterson, 'Some visual motifs of film noir' *Film Comment* 10:1 (1974), p. 31.

³⁸⁵ *Ibid.*, p. 32.

noted here that Place and Peterson refer to these visual motifs as ‘antitraditional’, a term in keeping with the emphasis in much critical scholarship upon noir’s difference from convention, an emphasis that I will return to shortly.

Noir is also frequently identified as ‘a narrative method that tends to be convoluted, murky, ambiguous and disorienting, deliberately rendering the audience uneasy, confused or disturbed’.³⁸⁶ As the prior quote demonstrates, this narrative method is frequently considered in terms of how it externalises the feelings of the noir hero. To use examples of noirs that contain courtroom scenes, even films such as *The File on Thelma Jordan*, *Angel Face* and *The Tattered Dress* (Dir: Jack Arnold, 1957), which do not employ the subjective devices of voiceover or flashback, convey disorientation through convoluted narrative methods that are characterised by dense plotting, surprise twists and narrative enigmas. Subverting the assumed straightforwardness of the court scene, typically anchored to cause-effect storytelling and relative closure through its bounded elements, is one way in which these films disturb or confuse the spectator.

Noir’s Essential Difference

All of the aforementioned elements, as well as the degree of fascination with noir exhibited in the sheer amount of criticism in existence,³⁸⁷ share one basic implication that has relevance to my project. This is noir’s distinction from what is considered conventional Hollywood filmmaking. Belton notes that ‘[w]hat struck French critics about film noir was its essential *difference* from earlier American

³⁸⁶ Imogen Sara Smith, ‘In Lonely Places’.

³⁸⁷ It is also worth noting that this fascination is bound with appreciation: “noir” is rarely employed as a pejorative term as “melodrama” often is, connoting instead a positive response.

films”’.³⁸⁸ The narrative complexity, ideological critique and ‘antitraditional’ visual strategies detected in noir are used to distinguish it from notions of the conventional classical Hollywood film, which is implicitly situated as less complex and challenging. The adjectives frequently used to describe noir – ambivalent, pessimistic, fatalistic, cynical, etc. – form part of a critical project of demarcating and championing noir’s ‘essential difference’, as do the designations of noir as mood, atmosphere or spirit rather than genre. This is why much early criticism on noir now appears inclined to the kind of poetic but inaccurate generalisation evident in Borde and Chaumeton’s claim that ‘death always comes at the end of a tortured journey’.³⁸⁹ Although later work debates the degree to which noir does constitute a departure from Hollywood convention (Dale Ewing Jr. states that ‘although *films noirs* were supposed to be more nihilistic than the usual Hollywood films, they were still Hollywood films’),³⁹⁰ its “difference” remains central to the critical attention it has been accorded. The subversive qualities of noir can again be examined through a consideration of the noir courtroom trial sequence. Seeing how, and to what extent, the trial sequences of film noir depart from Hollywood cinema’s conventions of depicting the courtroom allows us a means of measuring the extent of noir’s subversive potentialities.

J.P. Telotte (1989) makes a case for how noir narratives distinguished themselves from classical convention. Telotte argues that noir ‘seems to be fundamentally *about* violations: vice, corruption, unrestrained desire, and, most fundamental of all, abrogation of the American dream’s most basic promises – of

³⁸⁸ John Belton, *American Cinema, American Culture* (New York: McGraw Hill, 1994), p. 190; quoted in Steve Neale, *Genre and Hollywood* (London; New York: Routledge, 2000), p. 156.

³⁸⁹ Borde and Chaumeton, ‘Towards a definition of *film noir*’, p. 19.

³⁹⁰ Dale Ewing Jr., ‘Film Noir: Style and Content,’ *Journal of Popular Film and Television* 16:2 (1988), p. 61.

hope, prosperity, and safety from persecution'.³⁹¹ Noir is situated as a form that reveals corruption and crime to be pervasive societal elements, but Telotte argues that, additionally, the 'patterns of violation' noir draws attention to

also appear to be the patterns of our cultural and human order [...] the narrative voice that drives these films [...] talks not simply about crime and corruption but about how we understand and give formulation to self and society; it asks how we see ourselves, individually and culturally.³⁹²

One of my chief interests in Telotte's work in relation to my own project is this emphasis on the narrative voice of noir, which intersects in useful ways with the underlying assumptions regarding voice in trial representations and helps to clarify noir's terms of difference. Telotte argues that noirs 'served a significant liberating function for the American cinema' through their ability to 'voice violation, to articulate what the classical cinema might normally have muted or stifled'.³⁹³ Noir 'pushes at the very boundaries of classical narrative',³⁹⁴³⁹⁵ through strategies – including the combined voice-over and flashback structure and subjective camerawork - that point to 'a compelling urge to understand, formulate, and articulate the human situation at a time when our old formulations [...] no longer seemed adequate'.³⁹⁶ Thus Telotte sees in the subjectivised narratives of noir the attempt at new forms of expression. My interest in this argument arises from the implication this holds for the courtroom form, which conventionally typifies the

³⁹¹ J.P. Telotte, *Voices in the Dark: the narrative patterns of film noir* (Urbana: University of Illinois Press, 1989), p. 2.

³⁹² Ibid.

³⁹³ Ibid., p. 5.

³⁹⁴ Ibid.

³⁹⁵ The 'classical narrative' is identified through its relatively objective point of view structure, cause-effect logic, goal-oriented characters, and narrative closure.

³⁹⁶ Ibid., p. 14.

classical voice. To apply Telotte's argument to the noir courtroom suggests a clash of voices.

Telotte argues that the noir voice brings attention 'to the very power of our cultural discourse to permit speech and to impose silence'.³⁹⁷ This ability to draw attention to the potentially autocratic powers of cultural discourse is relevant to my project. The law itself can be said to establish 'its own particular kind of cultural discourse' (Robert Post, 1991, viii) that the classical Hollywood cinema (partly through its typical affirmation of the court system) normalises. However, noir, for Telotte, demonstrates through 'a thematic focus on our discourse [...] how fundamentally our communications [...] carry a certain estranging force, one that renders all discourse precarious and every effort at human communication a risky wager against misunderstanding and alienation'.³⁹⁸ Telotte sees noir's project of prioritising the subjective 'as an alternative to the objectivity we implicitly attribute to classical narrative' as a way of articulating the self's desire for a voice against popular discourse's attempts at submission.³⁹⁹ This 'thematic focus on discourse' is of course liable to inflect the depiction of the courtroom trial, which both dramatises the use of a particular form of cultural discourse and depicts the attempt to discern objective truths through communication. The implication is that an uncommonly critical view of the courtroom will be identified in noir.

Reconsidering Law Noir

Norman Rosenberg's introduction of the term law noir⁴⁰⁰ also arises from the desire to differentiate between an affirmative dominant model of representation

³⁹⁷ Ibid., p. 5.

³⁹⁸ Telotte, *Voices in the Dark*, p. 30.

³⁹⁹ Ibid., p. 17.

⁴⁰⁰ See Review of Literature, page 35.

and an alternative model that lends itself more readily to critiquing society and its institutions. Rosenberg's discussion of law noir bears striking similarities to Telotte's argument. Both pivot around the notion of voice; Telotte's distinction between the conventional cinematic voice and the noir voice parallels Rosenberg's distinction between a model designed to erase anxieties surrounding 'the specialized discourses' of the courtroom and noir's propensity to problematise these discourses.⁴⁰¹ Telotte and Rosenberg both view noir as a form that brings attention to the manner in which cultural discourses can silence, rather than give voice to, the individual, but Rosenberg considers this specifically in relation to the role of law and the court in noir.

Rosenberg also viewed the law noir's refusal to utilise the court scene as a mechanism for narrative closure as part of its divergence from conventional affirmative depictions. This is another issue I wish to expand on. Again the noir narrative method does not correlate with the positioning of the courtroom trial as the embodiment of closure, and neither the case studies I look at in this chapter nor the majority of the other examples employ the trial in this manner. Unlike my case studies in the other chapters, noirs do not tend to utilise a trial scene as the dramatic climax.⁴⁰² Trials instead can appear near the outset of the narrative (*Stranger on the Third Floor*, *Phantom Lady*), in advance of the final act (*The Lady from Shanghai*, *Angel Face*, *The Postman Always Rings Twice* [Dir: Tay Garnett, 1946], *The Wrong Man* [Dir: Alfred Hitchcock, 1956]), or more broadly at points where they precede a narrative twist that undoes the conventional closure elicited from the trial

⁴⁰¹ Norman Rosenberg, 'Hollywood on Trials', p. 344.

⁴⁰² An anomaly is *The Tattered Dress*, a film whose generic atypicality has seen it described as 'a curious late entry in the main period of film noir' (see Bruce Crowther, *Film Noir* [Random House, 2011], p. 116).

scene (*The File on Thelma Jordan, Please Murder Me!* [Dir: Peter Godfrey, 1956], *Beyond a Reasonable Doubt* [Dir: Fritz Lang, 1957]).⁴⁰³ I wish to consider some further ways in which noir's specific terms of difference from conventional forms can inflect its depiction of law and the courts.

Looking at the relationship between noir and law as an institution offers a new strategy for reconsidering the terminology frequently applied to noir but less frequently interrogated; the kinds of 'negative terms' that Ewing argues 'have been applied so loosely as to have lost all meaning'.⁴⁰⁴ For example, Robert B. Pippin's use of terms such as fatalism and entrapment are elucidated when applied within the specific context of noir's representations of legal institutions. Pippin provides a neat summation of the 'standard picture' of noir as consisting of three variations on entrapment: entrapment by the self (or by who the self has become), entrapment by chance or fate, and entrapment 'by an anonymous and autonomous social order or societal machine'.⁴⁰⁵ It is the latter that I wish to discuss. Pippin's assertion that the figures who represent society's institutions, including politicians and the police, are 'if not corrupt then maddeningly incompetent, almost always and with righteous self-confidence arresting the wrong man' is a generalisation,⁴⁰⁶ but one that can nevertheless permit us to begin thinking about the terms in which the figures of legal authority in the courtroom are represented. The depicted corruption or

⁴⁰³ This final subversion of convention is particularly interesting in that it anticipates the narrative twists of certain conventional trial films, including *Witness for the Prosecution*. However *Witness*, unlike the majority of the law noirs, negotiates its climactic twist so that the possibility of law and justice within the court system is affirmed.

⁴⁰⁴ Dale Ewing Jr., 'Film Noir: Style and Content,' p. 68.

⁴⁰⁵ Robert B. Pippin, *Fatalism in American Film Noir: some cinematic philosophy* (Charlottesville; London: University of Virginia Press, 2012), p. 11.

⁴⁰⁶ *Ibid.*, p. 6.

incompetence of authority figures are part of how noir's pessimism (to which the majority of these overemployed terms are related) reveals itself.

The conceptualisation of the pessimistic treatment of societal institutions evokes work on representations of the legal system in films directed by Alfred Hitchcock. I wish to introduce what I see as the parallels between noir's model of representing the legal process and the representational strategies of Hitchcock's courtroom scenes. Rostron, writing on three Hitchcock films that explicitly deal with the law and trial systems,⁴⁰⁷ argues that:

Taking comfort in neither divine nor earthly law, Hitchcock viewed the world as a place where innocence and guilt are confused and a thin veneer of order and civilization stretches over chaos and uncertainty [...] His movies reflect this fear of disorder and the breakdown of institutions and systems – especially legal ones – designed to keep the irrational and absurd at bay. In his films, innocents die along with the guilty. Legal processes constantly go awry and never can achieve justice.⁴⁰⁸

These Hitchcock films share with the more traditionally situated noirs,⁴⁰⁹ a view of legal institutions that is demonstrated in their parallel representational strategies (to be discussed in more detail across the chapter). The intrusion of the noir world attests to the 'thin veneer of order and civilization' stretched over 'chaos and uncertainty', and Rostron's description gives a good indicator of how the pessimism frequently associated with noir could effect its depictions of the trial system.

⁴⁰⁷ *The Paradine Case* (Dir: Alfred Hitchcock, 1947), *I, Confess* (Dir: Alfred Hitchcock, 1953), and *The Wrong Man* (Dir: Alfred Hitchcock, 1957).

⁴⁰⁸ Allen K. Rostron, 'Lawyers, Law & the Movies: The Hitchcock Cases,' *California Law Review* 86:1 (Jan 1998), p. 226.

⁴⁰⁹ Hitchcock's relationship to the noir canon is usually overlooked in favour of an auteurist separation of his films from other groupings. Nevertheless, like a number of other "auteurs" in the Hollywood cinema (Lang, Preminger, Welles), his consistent treatment of the trial system bears a number of striking parallels to the model of representation I outline in this chapter.

The representation of legal professionals as corrupt or inept, in line with noir's critique of American institutions, can be examined through analyses of the films. But such analyses should also consider the roles noir heroes play in the courtroom scene. One way to approach this is to think about Walker's basic narrative model and examine the extent to which (and the devices through which) the courtroom represents the 'noir world'. However, this must be nuanced by considering the range of heroes noir offers us and how these characterisations construct specific relationships to law, crime and decency. We can begin by thinking about the legal outsider hero who has broken the law. Fluck argues that noir's frequent restructuring of conventional criminal characterisations so that the central criminal figure is often an ordinary citizen rather than a professional criminal (i.e. the gangster), in combination with the subjective devices of noir, means that 'Traditional models of explanation and judgment which still anchor the gangster movie are challenged'.⁴¹⁰ These traditional models are then explicitly paralleled with the legal point of view:

Seen "objectively," from the point of view of the law, his or her crime seems inexcusable; seen subjectively, we begin to understand the unfortunate set of chance events that have led to the violation of the law (or the –false –accusation of having violated it) and feel inclined to acknowledge that the question of guilt is a much more complicated one than the legal system allows.⁴¹¹

Although Fluck could be accused of taking noir's protagonists at face value (they are often still conscious of breaking the law, or are situated as unreliable in

⁴¹⁰ Winifried Fluck, 'Mass Culture Modernism: Guilt and Subjectivity in *Film Noir*' in Biegler and Voelz (eds.) *Romance with America?: essays on culture, literature and American studies* (Heidelberg: Universitätsverlag, 2009), p. 299.

⁴¹¹ Ibid, p. 297.

their protestations of misfortune⁴¹²), I concur that noir often complicates standard models of explanation and judgment so that criminal acts are rendered less legible (in terms of action or intent) and thus less simplistically answerable to the court.⁴¹³ This is also achieved through noir narrative's frequent emphasis on the influence of fate and chance upon events, characters who have no awareness of their own psychological motivations, or narrative twists of fate that reflect upon the hidden desires of our protagonists.⁴¹⁴ For example, the confession-via-trial convention is typically presented as an emergence of an objective truth,⁴¹⁵ whereas any "straight" reading of a confession in noir is blurred by the genre's formal strategies and thematic preoccupations.⁴¹⁶

Another productive manner of comparing the characterisations in noir to trial convention is to consider the presence of the trial film's justice figure. The justice figures of the golden age trial films were largely beyond reproach in their use of the tenets of natural law to achieve justice via the courts. The melodrama

⁴¹² The character of Al (Tom Neal), the protagonist and unreliable narrator of *Detour*, is emblematic in this respect.

⁴¹³ This is partly why the ostensible golden age trial film *Anatomy of a Murder*, in which the case for the defence is pivoted around the issue of subconscious intent (described as "irresistible impulse") rather than a denial that the defendant shot the victim, feels anomalous within the golden age grouping and has itself been considered to display some of noir's qualities (see Richard Teleky, 'Anatomy of *Anatomy of a Murder*', *CineAction* 94 (2014), p. 68). The traditional models of explanation and judgment that anchor the trial narratives of *To Kill a Mockingbird*, *12 Angry Men*, etc., are complicated.

⁴¹⁴ Examples include the numerous accidents that befall Al in *Detour* (1945, Dir: Edgar G. Ulmer) and the psychology of the femme fatales Ellen Berent (Gene Tierney) in *Leave her to Heaven* and Nancy (Laraine Day) in *The Locket*.

⁴¹⁵ The murder confession elicited from witness John Palmer Cass (Ward Bond) on the stand due to the accusations of Abraham Lincoln (Henry Fonda) in *Young Mr. Lincoln* is one classic example.

⁴¹⁶ Indeed, Rosenberg himself discusses this in 'Hollywood on Trials' in relation to the law noir *They Won't Believe Me*. In this film, the framing device of the courtroom confession is employed in order to emphasise 'struggles [...] over the questions of closure and translation' (Rosenberg, 'Hollywood on Trials', p. 361) raised in earlier law noirs. The conflict between the legal point of view (embedded in the depiction of a trial) and the tortured subjectivity of the protagonist (suggested in the noir devices of voiceover and flashback and foregrounded throughout) results in the ironic subversion of courtroom conventions.

case studies of my previous chapter refigured the justice figure as the female defendant; this nevertheless made a model of natural justice legible to the spectator. Noir often complicates this relation to justice. The seeker heroes (another character type identified by Walker) often resort to operating outside of the law to achieve justice, and frequently fall prey to the criminal underworld themselves. Justice – implicitly defined in terms of punishment deemed appropriate to the transgression enacted – is necessitated by the guidelines of the Production Code. Nevertheless, noir often subverts the standard model of justice so that it is seen to be enacted by fate, chance or death (through suicide or vengeful murder) more often than it is located within the deliberate action of the legal or institutional framework.⁴¹⁷

These conventions have several implications for the depiction of the trial. The most fundamental is that, as justice is typically enacted outside of the courts (and often external to the law entirely), a dominant function of the golden age trial film - to affirm the possibility of justice via the courts - is thrown into doubt. Another implication is that through a combination of the location of justice elsewhere and the genre's ambivalent characterisations, the court scenes of noir often feature no justice figure at all. For example, consider how noir typically treats the defence attorney. Frequently situated in the golden age trial films as the justice figure *par excellence*, the noir defence attorney is instead figured as inept (as I will demonstrate in *Stranger on the Third Floor*), or ethically corrupt (i.e. willing to defend clients he knows to be guilty and constructing narratives that distort or disregard the truth: examples include Fred Barrett [Leon Ames] in *Angel Face* and Arthur Keats [Hume Cronyn] in *The Postman Always Rings Twice*). Or he is led by

⁴¹⁷ Such patterns of resolution are evident in many noir narratives, including *The Postman Always Rings Twice*, *Double Indemnity* (Dir: Billy Wilder, 1944), *Detour* (Dir: Edgar G. Ulmer, 1945), *The Lady from Shanghai*, *Out of the Past*, and *Angel Face*.

ulterior motives into perverting the conventional course of justice (the lawyer protagonist of *The File on Thelma Jordan* who deliberately damages his prosecution case due to his romantic involvement with the defendant). Even those characters that bear closer relationships to the justice figure are more ambivalently rendered.⁴¹⁸ The convention of lawyer-as-justice-figure is subverted across examples of law noir, and I will return to the means by which this subversion is enacted in more detail in my discussion of *The Lady from Shanghai*.

Rosenberg's findings also point to another facet of noir's trial representation, which is the trial's relative scarcity as a significant narrative event. The dominant narratives and narrative strategies I have outlined should make evident that courtrooms do not appear with great frequency in noir, and that those that do have little interest in adhering to the conventional functions of the trial form. Rosenberg's work demonstrates that the overt critique of the court system he identifies in *Fury* and *Stranger on the Third Floor* exists alongside more ambiguously situated relationships to law. Somewhere between this and the complete omission of courtroom material from *Force of Evil* (Dir: Abraham Polonsky, 1947),⁴¹⁹ exists another model of noir trial depiction, a truncated model that either completely elides or defamiliarises the conventions I outlined in my first chapter. This model allows the noir to assert its terms of difference while also

⁴¹⁸ For example, the lawyer protagonist of *Please Murder Me!*, Craig Carlson (Raymond Burr), who realises his lover, whom he has successfully defended in court for the murder of her husband, is guilty. His subsequent actions to ensure that justice is served involve ensuring she kills him, a murder he arranges so that she will be caught and convicted for it. Although Craig maintains that these actions are motivated by his belief "in the honesty and integrity of the courts", this protestation is challenged by the other implications that circulate within the noir narrative, including the notions of guilt, vengeance, and suicide. With this in mind, he becomes a warped justice figure befitting the thematic preoccupations and pessimism of noir.

⁴¹⁹ In a return to the concept of law noir, 'Looking for Law in all the Right Traces' (2000), Rosenberg discusses the removal of a framing courtroom device from *Force of Evil* between the pre-production and release stages as representative of noir's relationship to law (an ambivalent mixture of reliance and mistrust).

obscuring any potentially untenable critique of the American institution of the courtroom. I wish now to look briefly at two examples of this truncated model, in *Scarlet Street* and *Phantom Lady*, films that place the trial on the margins of the noir narrative.

Noir's Peripheral Courts: The Oblique Trials of *Scarlet Street* and *Phantom Lady*

Scarlet Street exemplifies some of the ways in which the subjectivised 'voice' of noir is used to defamiliarise courtroom convention.⁴²⁰ The film met resistance from certain American censors due primarily to what Bernstein deems the 'issue of crime *without punishment* [my italics]'.⁴²¹ The "hero" is driven to mental breakdown and homelessness by his guilt, after being warned by a journalist that all individuals "have a little courtroom" in their hearts that ensures that the guilty "go on punishing" themselves and that "You can't get away with it – ever." Yet this "courtroom of the heart" was not sufficiently aligned with a legal point of view for certain censors. A contemporary review proffers a positive reaction to the film's climactic narrative developments: 'If you think Robinson pays for his crime in the conventional manner with the law catching up to him, you are quite wrong. And herein lies the most unusual part of the picture'.⁴²² This quote is telling in its

⁴²⁰ The film concerns cashier Christopher Cross (Edward G. Robinson), unhappily married and sexually inexperienced, whose romantic obsession with a younger woman, Kitty March (Joan Bennett), leads him into a life of lies and embezzlement. Throughout the narrative, the spectator has seen how Kitty and her boyfriend/pimp Johnny (Dan Duryea) have manipulated Chris and assumed responsibility for the paintings he has produced. When the return of Chris' wife's first husband, long presumed dead, annuls his marriage, Christopher proposes to Kitty, and her taunting reaction leads him to murder her. The murder is attributed to Johnny, who is then tried, found guilty and put to death. Chris - wracked with guilt, jobless and alone - lives out the remainder of his days impoverished and tormented by thoughts of Kitty and Johnny.

⁴²¹ Bernstein, Matthew. 'A Tale of Three Cities: The Banning of *Scarlet Street*' in Bernstein (ed.) *Controlling Hollywood: Censorship and Regulation in the Studio Era*, p. 175. Bernstein details the banning of *Scarlet Street* by the New York State Censor Board, the Motion Picture Commission for the city of Milwaukee, and the censor board of Atlanta.

⁴²² Ann Marsters of *The Chicago-Herald American*; quoted in Matthew Bernstein, 'A Tale of Three Cities', p. 171.

inferences regarding the ‘conventional’ treatment of crime in American cinema and *Scarlet Street*’s ‘unusual’ divergence from such convention. The trope of the ‘law catching up with the criminal’ is a conventional one because it both ensures narrative resolution and imparts a legible moral message (or warning) to the audience. The courtroom trial can be used to perform this function.⁴²³ Noir, as I have outlined, often enacts justice outside of the law through the deaths of its transgressive characters late in the narrative. *Scarlet Street* is ‘most unusual’ because neither of these methods are employed. Yet the film still contains a trial sequence, one that thus inverts one typical narrative function of the courtroom.

The trial material is referred to by Osteen as a ‘swift trial scene montage’ rather than a sequence,⁴²⁴ and occupies only seventy five seconds of screen time. Nevertheless, while ‘swift’, it is striking in its non-naturalistic representational framework. An establishing shot presents the familiar triangular configuration of judge, lawyer and defendant as Johnny presents his case. Aside from the judge’s bench and the chairs on which the judge and Johnny sit, the remainder of the frame is sparse, devoid of the usual iconographic signifiers of the courtroom. Low-key lighting augments the sparseness, frames Johnny within an interrogative spotlight, and establishes the non-naturalism that pervades the rest of the sequence. A series of subsequent shots consist of witness testimonies, with individuals presented in medium to medium-long shot as they give evidence that constructs Johnny’s “guilt” (Figs 70-72). The chiaroscuro spotlight effect remains consistent across shots and witnesses, situating this courtroom somewhere in between the naturalistic space of

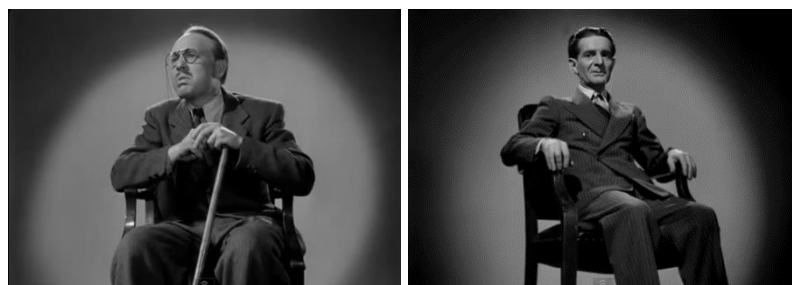
⁴²³ One moment that exemplifies the use of the court scenario to economically depict the punishment of guilty characters, and thus provide total narrative closure, is the trial sentencing montage that appears in the final moments of *The Iron Curtain* (Dir: William A. Wellman, 1948).

⁴²⁴ Mark Osteen, ‘Framed: Forging Identities in Film Noir’, *Journal of Film and Video* 62:3 (Fall 2010), p. 29.

conventional courtroom depiction and the expressionistic nightmare court I will identify in *Stranger on the Third Floor*.



Fig. 70



Figs. 71 (left) and 72 (right)

One way of analysing this initial portion of this sequence is to look at the irony that pervades the scenario. The spectator knows that Johnny did not kill Kitty, but his “guilt” in other ways –his mistreatment of Kitty, his deceptiveness in manipulating Chris into giving Kitty credit for the former’s paintings – is now being used in the courtroom to condemn him for her murder. The trope of the noir criminal being sentenced for the one crime of which he is innocent, present also in *The Postman Always Rings Twice*, is used here, thus ensuring that Johnny too, does not “get away with it”. This is in line with noir’s structures of justice, but it also demonstrates the ambivalent treatment of the courtroom as a problematic conduit for achieving justice. The legal point of view, technically, has it wrong, typical for the noir model of representation in which the narratives constructed in the courtroom, even when used to inform an outcome that is just in one respect, are manipulations of the truth.

Another way of approaching this sequence in the light of the literature considered earlier is to look at the mise-en-scène as distorting and disrupting the respectful form of conventional trial depiction in order to convey a character's subjectivity. The question, then, is whose subjectivity this style is meant to reflect. Possibly, the expressionistic representational strategies are meant to reflect Johnny's psyche, the visual mode embodying the starkness with which his fate has been sealed in the (spot)light of "irrefutable" evidence.⁴²⁵ Yet, another objective of the sequence is to begin to convey the downfall of Chris, the beginning of his guilt, and present another round of humiliation to which he is subjected. Thus the style may also reflect his subjectivity, an interpretation strengthened by the final three shots of the 'montage', which comprise the testimony of Chris's "former wife" Adele (Rosalind Ivan) (Fig. 73), Chris (Fig. 74), and the distressed Johnny's final statement (Fig 75). Both of the testimonies bookending Chris's refer to him negatively – with Adele describing him as a "thief" and Johnny leaning forward as he shouts "For God's sake, he's lying!" in response to Chris's preceding statements. Both of these shots are ambiguously situated as subjective, with Adele and

⁴²⁵ An expressionistic and abbreviated trial depiction is also evident in Alfred Hitchcock's *Dial M for Murder* (Dir: Alfred Hitchcock, 1954), during a sequence in which Margot Wendice (Grace Kelly) is tried and wrongfully found guilty of murder. The trial is primarily visualised through a long take of Margot, shot frontally in medium close-up, responding facially – but non-verbally – to questions asked by off-screen legal professionals whose voices are made to reverberate with a sinister echoing effect. The surrounding area of the frame is occupied only by a background surface that appears initially to be a blue wall with areas partially obscured by patches of shadow. However, over the course of the take, accompanied by an insistent low-pitched ticking in the non-diegetic score that augments the sense of tension, there occur overt shifts in the lighting and colour scheme of the shot. The backdrop and Margot's face alternately appear to be purple, red, and blue - frontally lit one second and shrouded in shadow the next. The use of lighting, colour and sound here corresponds to a highly stylized, non-naturalistic trial that clearly conveys the subjective experience of Margot on the stand. As one of the only sequences in *Dial M for Murder* set outside of the Wendice home (it should be noted that this scene is not present in the play by Frederick Knott that *Dial M for Murder* is adapted from) the truncated trial remains memorable by presenting not an authentic space but a non-naturalistic reflection of Margot's psyche.

Johnny's respective disgust and outrage directed at both Chris and spectator. The final shot does not, as we could imagine, place us in the perspective of Johnny responding to the guilty verdict, but rather shows a distressed Johnny looking directly at us, the viewer, and by implication, Chris. It is this moment, perhaps, which initiates the guilt into which Chris will subsequently descend, thus setting into motion the film's final enactment of justice.



Figs. 73 (left) and 74 (right)



Fig. 75

The trial of *Scarlet Street* is depicted in an oblique manner that challenges the classical function of the courtroom scene. The clarity and legibility that is expected to accompany the trial form is muddled by the subjectivised trial experience that is itself illegible. We cannot confidently discern whose point of view the non-naturalistic mode reflects: Johnny's, Chris's, a mixture of both, or another viewpoint entirely. Embedded in the choices of trial depiction is the critique of courtroom justice often presented by Fritz Lang;⁴²⁶ a later Lang noir, *Beyond a*

⁴²⁶ See Bruzzi (2010), p. 2.

Reasonable Doubt, would further interrogate the degree to which the trial process could be manipulated by the guilty party. The ambivalences of the trial's representational strategies are augmented by its status on the periphery of the narrative. The law is present but its conventional function and representational framework are distorted.

Another way of obscuring the legibility of the courtroom as conventionally employed is by not showing the stage. *Phantom Lady* goes a step further than the sparse trial representation of *Scarlet Street* by refusing to show us what any diegetic courtroom spectator would see. Tom Flinn summarises this:

Siodmak handles Henderson's trial obliquely. The camera never shows the accused, the judge, the jury, or any of the lawyers. Only the voice of the prosecutor (Milburn Stone) relates the proceedings as the camera dwells on the spectators, singling out Henderson's secretary, Kansas (Ella Raines) and Inspector Burgess (Thomas Gomez).⁴²⁷

Why have these choices been made in depicting a courtroom trial? Flinn argues that the trial sequence marks a narrative turning point at which the role of audience identification figure shifts from the defendant to Kansas and Burgess.⁴²⁸ The close ups and eye-line match edits in the courtroom sequence capture looks between Kansas and Burgess, constructing a model of identification that diverges from and overrides the legal point of view and instigates what Rosenberg refers to (in relation to *Stranger on the Third Floor*) as the process of seeking 'private solutions to

⁴²⁷ Tom Flinn, *Three Faces of Film Noir*, p. 38.

⁴²⁸ The trial occurs about twenty minutes into *Phantom Lady*. The film has opened with the unhappily married Scott (Alan Curtis) arriving to a bar alone and meeting the eponymous stranger (Fay Helm), whom he picks up and takes to a show. When he arrives home later that evening, his wife has been murdered, and he is arrested. Despite the alibi of the lady, finding the anonymous woman proves impossible, and several figures that we have seen interact with Scott and the lady deny ever having seen her. Scott is tried and sentenced to death in this trial sequence, and thus the remainder of the film consists of Carol's/Kansas' attempts to exonerate Scott.

public problems'.⁴²⁹ Thus in this instance, justice figures are present, but they are excluded both narratively and through the mise-en-scène from the trial procedure and its model of justice. The trial is a narrative obstruction. Its inclusion early in the narrative suggests that its function is not to provide closure but to augment the disequilibrium and disorientation of the noir world. It brings neither characters nor spectator any closer to comprehending the series of narrative mysteries that have been constructed. Although we know that Scott is innocent, we do not know who has committed his wife's murder, the identity of the eponymous lady, and the reasons the other characters he encountered on the evening of the crime deny having seen him. The trial is shown, as in *Scarlet Street*, to condemn a man whom we know is innocent to death on the basis of circumstantial evidence, but the representational strategies do not emphasise the injustice done to this defendant, instead creating a new set of emphases by only focusing on the emergent doubt of Inspector Burgess and Kansas' mistrust of the prosecution's case. In a careful negotiation of its representation of the law, the potentially censor-baiting critique of the legal process (once again, the trial is almost entirely at cross-purposes with the truth) is by no means absent, but is obscured by a deceptive disinterest in the trial itself.

The scene comprises of moments taken from three days of what we are shown is a lengthy trial, with the passages of time conveyed through establishing shots of the stenographer's notes that date each section of the sequence (the 10th, 16th and 24th day of the trial, respectively). We hear elements of conventional trial procedure through the off-screen dialogue that, in keeping with noir's focus on the

⁴²⁹ In both films it is significant that it is the female civilian who, frustrated with the law's response to the crime, assumes the role of investigator herself.

wrong(ed) man, emphasise Scott's victimisation; only the prosecution's questions and accusations are heard, which undermines the notion of competing narratives being measured and judged fairly against each other. Yet the camera restricts itself to the spectator's area of the courtroom. This space is noticeably crowded.⁴³⁰ The first day depicted consists of the prosecutor's opening statement, throughout which the camera shows spectators murmuring to each other. The sense of the trial as a tawdry spectacle for the spectators is encapsulated in the final shot of this segment. We begin with Kansas framed in medium close-up visibly disturbed by the prosecutor's comments (Fig. 76). However, a reframing obscures her from view as a woman in the foreground right of the frame leans in to her friend – presumably to gossip about the case (Fig. 77).



Fig. 76.

⁴³⁰ An impression of heat is conveyed through the recurrent image of spectators dabbing their faces with handkerchiefs and using hats as makeshift fans. This lends a specific atmosphere that suggests a stifling, claustrophobic environment (recall the use of similar devices in *Pinky*).



Fig. 77

A similar, but even more obtrusive disruption of convention occurs at the moment when the verdict is read out. Kansas is now viewed in the foreground right of a group shot of the spectatorship. Behind her, a woman leans forward mesmerised as she chews loudly on an apple. The camera pushes in on Kansas, the woman, and another spectator on the left of frame as the verdict is about to be read out, but the announcement is drowned out in a sudden coughing fit from the woman. This moment is significant for several reasons. It is the most concrete alignment with Kansas' subjectivity we have encountered thus far; the spectator hears what she hears, and, more importantly, cannot hear what she does not. The presence of the woman – again, an individual who we can assume has no relationship to Scott other than as an object of her morbid curiosity – is another critique of the wresting of private matters into the public sphere through the trial ritual. This treatment also thwarts the catharsis of the verdict as conventionally employed, again undermining the straightforward legibility of trial sequences in Hollywood cinema. Similarly to *Scarlet Street*, the treatment of the courtroom trial in *Phantom Lady* refuses to provide us with the image of a working system of law, and draws our attention instead to other ways of seeing the law – while evading the overt critique that is prohibited by the Production Code. The trial is simultaneously

subjectively treated through strategies that align us with Kansas' experience, and defamiliarised through its oblique handling. The trial scenes of *Scarlet Street* and *Phantom Lady* demonstrate some of the means by which noir's voice speaks to a different model of viewing the courtroom, one that moves away from assumed objectivity and asks us to question or problematize the courtroom as an arena for eliciting justice and objective truth. I wish now to consider two noirs that devote more time to the trial, utilising some of the same strategies but constituting more explicit critiques of the trial's processes.

"Sometimes they do get the wrong man....": *Stranger on the Third Floor* and the Nightmare Trials of Noir

Stranger on the Third Floor is 'generally regarded as the first *film noir* of the 1940s',⁴³¹ a classification that suggests it is both generically anticipatory and atypical.⁴³² Billed as a horror film on its initial release,⁴³³ the film is now seen to exemplify many of noir's conventions. It is photographed by key noir figure Nicolas Musuraca,⁴³⁴ and exhibits many of noir's 'distorted and disrupted' stylistic features, including low key lighting, nocturnal settings and exaggerated camera angles. The urban setting of New York City in the early Forties prefigures the

⁴³¹ Frank Krutnik, *In a Lonely Street: film noir, genre, masculinity* (London: Routledge, 1991), p. 47.

⁴³² Henri Focillon's work *The Life of Forms in Art*, which has been applied to criticism on film genres by John Cawelti (*The Six-Gun Mystique*, 1984) and Thomas Schatz (*Hollywood Genres*, 1981) argues that art forms progress through a series of different stages. *Stranger on the Third Floor* could be considered an exemplar of the initial 'experimental' stage that helps to set up conventions by playing with existing forms.

⁴³³ See Blair Davis, 'Horror Meets Noir: The Evolution of Cinematic Style, 1931-1958' in Steffen Hantke (Ed.) *Horror Film: Creating and Marketing Fear* (University Press of Mississippi, 2004).

⁴³⁴ Musuraca was essential to the construction of what came to be seen as noir's distinctive visual style, having shot many films now considered emblematic noirs (*Out of the Past*, *The Locket* [Dir: John Brahm, 1946], *Where Danger Lives* [Dir John Farrow, 1950]).

inclusion of what has since been viewed as much of the iconography of noir, with the film's depiction predominantly favouring decidedly unglamorous interiors (cramped apartments, diners, bars) and shadowy, nocturnally set exteriors.

Although much of the work on the film has restricted its discussion of the film's style to the overt excesses of the nightmare sequence, Flinn argues that 'the Germanic influence, so important in the creation of the *film noir* style, is quite obvious, and *not confined to the dream sequence* [my italics]'.⁴³⁵ This distinction is important. My analysis will show that many of the stylistic elements typical of noir are introduced in a more muted form in the film's first trial sequence, signalling *Stranger on the Third Floor*'s transition from depicting a recognisable diegetic world to the noir world of the later sequences.

The content of *Stranger on the Third Floor* also correlates with many of noir's conventions. The film's crime-centred narrative,⁴³⁶ involving a protagonist "railroaded" for a murder he did not commit, and its cynical treatment of several urban institutions - police investigation, newspaper journalism and the judicial

⁴³⁵ Tom Flinn, 'Three Faces of *Film Noir*', p. 36.

⁴³⁶ For purposes of clarity, I include the following plot synopsis: Mike Ward (John McGuire) is a young newspaper reporter in New York City, happily engaged to secretary Jane (Margaret Tallichet). Mike is called upon to testify in what seems to be an open-and-shut homicide trial, with Joe Briggs (Elisha Cook, Jr.) as defendant. Despite Jane's apprehensions, Mike testifies that he saw Briggs standing over the dead body of cafe owner Nick Nanbajan, and Briggs is found guilty. Harboring guilt and uncertainty over the verdict (and his role in it), Mike returns to his apartment, where the snoring of his neighbour Meng (Charles Halton) reminds him of his fraught relationships with Meng and his landlady, dramatized through a series of flashbacks. Mike then encounters a suspicious looking stranger (Peter Lorre) emerging from Meng's apartment. This occurrence, combined with Meng's sudden silence, induces two fears in Mike: firstly, that Meng has been killed, and secondly, that he himself will be blamed for the murder. Further flashbacks detail Mike's public animosity towards Meng. A visibly disturbed Mike falls asleep, but in a nightmare envisions his arrest, trial and eventual punishment (by death) for the murder of Meng. Awakening from the nightmare, Mike discovers that Meng has indeed been murdered, and after a panicked visit to Jane, is arrested by police for Meng's murder. Jane investigates the crime, searching for the stranger Mike saw emerge from Meng's room on the night of the murder. She eventually encounters the Stranger, who on realising her intentions chases her into the street. The Stranger is hit by a truck and dies, but not before confessing to the murder of Meng. Reunited, Mike and Jane plan their wedding, with the final sequence revealing that a pardoned Briggs has returned to his job as a cab driver as he offers to drive the pair to their destination.

process – is also generically prototypical. The film’s narrative structure corresponds to Walker’s ‘noir world’ model. The first sequence in which Mike and Jane meet at a diner that is presented as a familiar place for them, and discuss their plans to live together, exists emphatically in the ‘respectable world’, calling upon the conventions of a much lighter model of representation in Hollywood cinema (quite literally “lighter”; this is one of the only clearly daylight-set sequences in the entire film). The film anticipates noirs such as *Out of the Past* (Dir: Jacques Tourneur, 1947) in providing us with a glimpse of a normal, recognisable diegetic environment at the outset (one aligned with the domestic and romantic) to contrast with the noir world that then intrudes upon and disrupts the former. However, as with *Out of the Past*, the respectable world also exhibits an immediate uneasiness that attests to the speed with which the noir world’s emergence can rupture normality. The diner setting also functions to emphasise the young couple’s struggling economic status, symbolising their inability to create a home for themselves through marriage.⁴³⁷ A series of anxieties that will feed into the ensuing narrative are emergent in the opening sequence. These primarily consist of the competing economic and ethical impulses within Mike. We learn that by testifying in the murder case and reporting on it, Mike will earn a twelve dollar raise. Yet the possibility this entails – namely the legitimate domesticity the money will now allow the young couple – is soured by Jane’s stated “funny feeling” about Briggs, who she states with concern when scanning the newspaper front page “looks like a kid”.

⁴³⁷ The diner takes on this symbolic resonance across classical Hollywood cinema. It appears, to this effect, in *Dust Be my Destiny*. It also frequently appears in noir as a symbol of the rootlessness of the protagonists, as in *The Postman Always Rings Twice*, *The Killers* (Dir: Robert Siodmak, 1946), *Detour* (Dir: Edgar G. Ulmer, 1945) and *His Kind of Woman* (Dir: John Farrow, 1951).

The film's later developments exemplify Walker's 'noir world' model, as Mike finds himself in an escalating crisis following the 'chance event' of witnessing a crime scene. The film's second act focuses on Mike's psychological state, depicting an internal loss of control before his prolonged absence in the final act strips him of any masculine agency as Jane, in an atypical development for the classical Hollywood cinema, assumes the implicitly masculinised 'seeker hero' investigative role.⁴³⁸ It is largely through the first trial sequence that the noir world begins to overtly intrude upon Mike Ward's respectable life.

A difference between this initial trial sequence and other trials I have analysed is that it occurs in the first act of the film. Rather than providing the resolution and closure that can be sought through a trial sequence, *Stranger on the Third Floor* employs its first trial sequence in order to invoke narrative disequilibrium and, in effect induce the presence of the disruptive 'noir world'. This is in keeping with the subversion of the narrative function typically accorded the court that I have identified across the law noir. Mike enters the courtroom in the role of authoritative but emotionally detached witness rather than the pressured role of defendant or emotionally invested witness. However, his encroaching guilt is being fed into the sequence through the underlying pressures that are embedded in the trial's status as his "break" and Jane's concern for the "kid" Briggs⁴³⁹. It is also made evident in the scene prior to the trial, in which Mike's fellow newspapermen joke about him being "the star of the show" and ask "how does it feel to hold centre stage in this eternal drama of life and death?" The tone amongst the newspapermen

⁴³⁸ A similar narrative structure, thrusting the female lead into the role of amateur detective following a key male character's incarceration, appears in *Phantom Lady* (1944).

⁴³⁹ It is worth noting that John McGuire, playing Mike, is resolutely not himself a kid. Mike has clearly been waiting for this break for a while, which again implicitly raises the stakes of its importance to him.

is typical of representations of journalists, particularly with regards to the courtroom trial;⁴⁴⁰ to them, it is spectacle, entertainment, nothing more. The issue of Mike's potential responsibility for sending Briggs to "the chair" is raised, but rebuffed by Mike who states with sincerity "It isn't a question of my story against his. It's what I saw with my own eyes." On this there is a fade to Mike on the stand.

Mike's profession situates him as an individual familiar with court processes. This trial sequence differs from those in my other case studies not only in the role and relative authority our protagonist has on entering the courtroom, but also because the audience have not been witness to the crime that has led to the trial. We do not actually know whether Briggs committed the crime he is accused of, although at this point paradigms of audience identification lead us to trust the journalist protagonist. Part of the project of the sequence is to undermine both Mike's and the spectator's certainty of Briggs' guilt. The decision not to present to the viewer the action – Mike's witnessing of the crime scene at Nick's cafe - that is pivotal to setting the film's plot into motion also contributes to a mildly disorienting effect I have identified in noir's narrative structures.

I noted in my first chapter that the conventional development of trial sequences typically places the more dramatically eventful, emotionally charged testimonies later in the sequence. Thus, opening this sequence with Mike's testimony immediately posits his time on the stand as unlikely to yield much dramatic action, and undermines expectations that any of its related tropes (such as the outburst or witness breakdown) will appear at this point. Rather, it is imperative to the development of the sequence that Mike's testimony runs smoothly. In his

⁴⁴⁰ Consider the depiction of journalists in the courtroom in Chapter One, pp. 75-76.

position as a professional, presumably educated white male and (as described by the District Attorney whilst on the stand) “trained observer of men and events”, Mike is not significantly challenged while on the stand, to the degree that the District Attorney (Charles Waldron) encourages Mike to present his testimony through the repeated use of the phrase “go on”. Thus, in contrast to the dominant representation of the legal outsider on the witness stand, the film at this point depicts Mike as able to present the entirety of his account.⁴⁴¹ To recall Telotte’s argument regarding noir and discourse, Mike is ‘permitted speech’ due to his presence as a trusted witness. He is in a position analogous to the expert witnesses (doctors, police) depicted in the early stages of other trial sequences.

It is instead the reaction shots of Briggs, the defendant, that convey an impending (and feminising) hysteria. Briggs is introduced via a reaction shot close-up during Mike’s initial testimony where his evident concern is registered through his highly nervous expression - eyes widened and brow raised as if exhibiting a mixture of shock and disbelief (Fig. 78).⁴⁴² This is the expression of an innocent man becoming aware of how easily the narratives constructed by others in the courtroom can make him appear guilty. Reaction shots of Briggs throughout Mike’s testimony begin to situate the former as another potential identification figure for

⁴⁴¹ It is worth reiterating here what Mike’s version of events actually is. Mike testifies to having seen Joe Briggs at Nick’s café several days before Nick’s murder. During this initial meeting, Mike saw Briggs threaten Nick after it transpired that the latter was unable to pay for the food he has ordered, and Mike, in order to pacify the situation, gave Briggs the money himself. Mike then testifies that, on returning to the café several days later, he saw Briggs standing over Nick’s body and an open cash register before fleeing the scene.

⁴⁴² Briggs is played by Elisha Cook, Jr., an actor whose recurrent appearances in the noir genre following *Stranger on the Third Floor* would see him establish a persona as the luckless fall guy,⁴⁴²

⁴⁴² Cook was a character actor who would emerge as a key noir presence in the decade following *Stranger on the Third Floor*, typically playing doomed henchmen or petty criminals in films such as *The Maltese Falcon* (Dir: John Huston, 1941), *Phantom Lady* (1944), *The Big Sleep* (Dir: Howard Hawks, 1946) and *Born to Kill* (Dir: Robert Wise, 1947).

the audience, an empathetic response to him again integral to the sequence's project of undermining the certainty of his guilt.



Fig. 78

It is during Mike's testimony that Jane arrives into the courtroom. Her presence provides another identification figure for the audience to map their own responses to the competing narratives of the trial against. A reaction shot of Jane listening intently to Mike's testimony whilst looking over at the off-screen Briggs presents her not simply as a supportive female figure but rather an active interpreter of events, creating a space for the spectator's uncertainty to emerge. Putting Jane in the courtroom also allows us to view how relatively empty the courtroom spectator area is - the reframing as she takes a seat includes within the shot only a woman wearing a hat and veil and a non-descript male in the upper right of the frame. We can make several inferences regarding the specificities of the noir courtroom based on this seemingly minor detail alone. Firstly, the relative lack of spectators – particularly anyone we could interpret to be friends or relatives of Briggs (again contrasting him with Mike, who does have a loved one present) – is a sharp contrast to the crowded courtroom scenes of the golden age trial films and the public spectacle of the melodrama trial sequences (see Figs. 79-80 for a comparison of a

reaction shot of Jane during the trial to a similar moment in *Peyton Place*). In a city where crime is rampant and both the public and legal system largely indifferent, it follows that trials are not imbued with the status of social spectacle that a crowded seating area would suggest. Instead the sparse gallery, like a majority of other elements in the trial, reflects an urban environment over-familiar with and under-invested in the kind of crime on trial, with the exceptions being the morbid interest in the sensationalistic details of the case implied by the presence of tabloid journalists, and the lone female for whom a murder trial is a day's entertainment (this character will shortly shush Mike and Jane as the couple attempt to talk in the spectator's gallery after his testimony).



Figs. 79 (top); 80 (bottom)

Mike's testimony culminates with the District Attorney's declaration that "on your answer may depend a man's life" before once again asking Mike if he is certain that he saw Briggs in Nick's café on both occasions. This is the first instance of the issue of Mike being responsible for Briggs' fate being raised during

the trial itself. In its repetitions throughout the sequence (coupled with the intensification of dramatic action later in the trial) this comes to emerge as its central concern, laying the foundations for Mike's guilt-ridden psychology to trigger the series of sequences that follow. Having given his testimony, Mike steps down from the stand, but as he walks to seat himself next to Jane a brief moment conveys this emergent sense of guilt. There is a near-subjective medium shot of Briggs looking up at Mike as the latter passes him. He says sarcastically "Thanks for that cup of coffee," upon which a reaction shot of a visibly perturbed Mike captures his response as he continues walking. The inclusion of an explicitly personal interaction is pivotal in establishing the emerging responses of doubt and guilt in Mike's mind. Following this, the sequence returns to a more conventional (procedural) element of the trial sequence with the expert witness testimonial of Dr. Evans (Otto Hoffman), who serves to bridge the testimonies of Mike and Briggs. Evans' function – aside from situating the diegetic trial as a reasonably plausible one by adhering to what the audience recognises as trial procedure– is primarily to present the grisly details of Nick's murder, with his assertion that "the head was almost severed from the body" followed by a reaction shot of several visibly disgusted jurors. From this an ellipsis takes us to a long shot of Briggs on the stand in the midst of the District Attorney's questioning.

The confident efficiency of the District Attorney (Charles Waldron) is contrasted with the glaring inadequacies of judge, jury, and defence attorney, particularly as we enter the second major segment of the trial sequence, Briggs' testimony. All of these figures are presented in ways that undermine typical depictions of them as symbols of stability, objectivity, and relative invisibility. Flinn argues that this trial sequence 'is a vicious rendering of the American legal

system hard at work on an impoverished victim. The film displays a fine sense of caricature especially apparent in the figure of the judge'.⁴⁴³ I will look at the judge in more detail shortly, but we should mention first the glaring inefficiency of Briggs' defence attorney, conveyed through the single question he asks Mike during his cross-examination – "But did you actually see [Briggs] commit the murder?" – and the ensuing reaction shot of two journalists in the court, one of whom states "I wouldn't let him defend me if it was for stealing an apple." This pushes to the forefront of our response to the sequence an atypical sense of the inequalities of the judicial process. Rarely do trial depictions of the classical era raise the issue of the quality of the defence lawyer and the effect this can have on a (possibly innocent) defendant so explicitly, although noirs such as *The Postman Always Rings Twice* and *Angel Face* do posit the selection of a showboating and unscrupulous lawyer (who knows how to manipulate a jury) as crucial to getting away with murder.

The focus on Briggs here also brings out this sense of inequality and victimisation as integral to trial procedure. Even the initial phase of Briggs' questioning brings out a series of contrasts between him and Mike. Briggs' costume (an ill-fitting, creased suit) and the dialogue in response to the Prosecutor's questioning, including the double negatives "he didn't say nothin'" and "I didn't take no money," create a set of assumptions around the character's class status and social background that begin to construct the image of Briggs as 'impoverished victim'. Once again a character's use of language demarcates them as an outsider, less equipped to deal with the judicial process that theoretically works as a great leveller than someone of higher social standing. The testimony presents to the

⁴⁴³ Tom Flinn, 'Three Faces of *Film Noir*', p. 35.

spectator Briggs' version of events: that he had returned to Nick's cafe in the hope of finding Mike and repaying his debt, only to find the owner's body slumped over an open cash register. The attorney's comments and questions - "So you want this jury to believe that you went back to Nick's just to repay a debt of 30 cents." "How did you know you'd find [Mike] there?" - are accompanied by subtle glances at and movements towards the jury, in an unspoken conditioning that unites attorney and jury in an assumed shared acknowledgment of the unlikelihood of Briggs' story. Briggs' response to the latter question, "well I took a chance" chimes with the notions of fate or chance working against the unlucky individual in film noir. The prevalence of coincidences and ironies that circulate around Nick's death and the trial - Mike, the individual Briggs was hoping to find at the cafe, arriving at a moment that incriminates the former in murder, Mike's responsibility in condemning to death a man whom he had on their first encounter helped, the murder of a man whom Briggs has threatened only days prior - will reoccur when Mike suspects that Meng has been murdered.

It is during the key moments of Briggs' questioning that a brief interlude, jarring both tonally in relation to the rest of the sequence and in its departure from classical courtroom convention, most overtly depicts the fallibility of judge and jury, as it is revealed that one juror is not only sleeping but audibly snoring. The following shot captures the judge, tellingly looking away from the witness box and jury (who are in the upper right of the frame to his lower left) as the District Attorney alerts him to the slumbering juror. In another telling gesture, the unengaged judge (Oscar O'Shea) is then viewed putting on his glasses in order to ascertain what exactly the Prosecutor has alerted him to, before banging his gavel to awaken the individual. The following set of exchanges between the judge and juror,

in which the judge hypocritically admonishes the man for failing to “pay strict attention to the evidence” before the latter explains that he was “up all night with a terrible toothache” is written and performed (particularly by O’Shea as the flustered judge) in a comic manner, offering both individuals as figures of ridicule. This moment constitutes a startling subversion of the expectations surrounding the figures of judge and jury, constructed through their conventionalised rigidity and lack of individualising detail. The judge, typically presented as a symbol of the law at work, and the jury, typically non-individualised,⁴⁴⁴ are not only imbued with personal characteristics, but ones that create a negative impression. To show a judge not listening is an almost complete subversion of how this figure is typically presented to us and clearly conveys, through this subversion, the sense of a legal process that fails due to the apathy and/or fallibility of the individuals granted authority within it. Although this could be argued to place blame for the trial’s failing on the individual rather than systemic level, the exclusion of a justice figure emphasises (rather than obscures) the precariousness of the trial’s processes.⁴⁴⁵ The overtness of this fallibility, demonstrable in the doubling of gestures that demarcate the judge’s inattention, is part of the scene’s objective to subvert the conventional affirmative depiction of the court.

This interlude incurs laughter from the rest of the courtroom as the bashful juror sits down. There is a cut to a tight two-shot of Mike and Jane, the latter clearly uncomfortable as the judge bangs his gavel to quiet the courtroom. Jane looks around, surveying the laughter, and then states to Mike that “all they want is to get

⁴⁴⁴ It is worth recalling here Carol Clover’s work on the cinematic jury (see my review of literature).

⁴⁴⁵ *12 Angry Men* serves as a useful comparison here; the opening trial scene of that film also depicts an inattentive judge. But the subsequent narrative developments, structured around the persuasiveness of Juror #8, the film’s justice figure, allow the film to demonstrate that justice is still achievable under the adversarial trial system.

it over with, go home.” This tonally jarring moment aligns the spectator with Jane, in a shared comprehension that the proceedings are more serious than the rest of the courtroom’s treatment of it suggests. Here *Stranger on the Third Floor* anticipates a moment in *The Wrong Man* during which

the accused man sees how trivial the trial is for everyone but him. As his life disintegrates, guards and jurors chat, a woman touches up her lipstick, a prosecutor and his assistant share a joke, and a juror polishes his glasses. The courtroom proceeding simultaneously appears hellish and mundane.⁴⁴⁶

This discrepancy between how the trial is viewed by the individuals whose lives will be affected by the outcome, and those who will not be affected, is anticipated in *Stranger on the Third Floor*. Both films align the audience with the viewpoints of the legal outsiders whose hellish experience contrasts with the attitudes exhibited elsewhere (it is no coincidence that *The Wrong Man* also includes subjective shots from the viewpoint of the innocent defendant).

The questioning of Briggs intensifies, and when he is confronted with the details of a previous conviction that he had lied about, there are consecutive close-ups of (a distressed, visibly sweating) Briggs, Mike, and Jane. This editing pattern is repeated moments later when a now horrified Briggs, confronted with the barrage of evidence against him, turns to the jurors and shrieks “I didn’t kill him!” He then repeats “I didn’t” twice over, with each repetition accompanied by a cut; firstly to a close-up of an uncomfortable looking Mike, and secondly to Jane, who looks down at the floor and covers her ears in evident distress. The consecutive close-ups of the three characters unites them in the enveloping intensity of the sequence and their feelings, in a reminder of their roles in the others’ fates. It is also representative of

⁴⁴⁶ Allen K. Rostron, ‘Lawyers, Law and the Movies: The Hitchcock Cases’, p. 227.

the shifts in identification and viewpoint that pervade the sequence. We are allowed not only to share in the differing perspectives of all three characters, but also to see how all three are united in their divergence from the court's point of view.

The defendant's outburst leads Jane to stand up and rush down the aisle out of the courtroom, and the sequence continues by following Mike and Jane out of the court. This does not correspond with a recess in the diegetic trial itself, but nevertheless functions similarly to the recess convention by puncturing some of the dramatic tension built up in the preceding developments. The couple's conversation in a corridor outside of the courtroom, during which Mike tries to pacify a disturbed Jane by telling her that she is "just upset - everybody is at their first trial" again underlines their opposed perspectives. Mike's conventionally masculine air of rational detachment contrasts with Jane's involved, intuitive and implicitly feminine emotionalism, as the latter argues "suppose, for just one minute, that he's telling the truth" and articulates her concern that Briggs' likely conviction will be due to Mike's testimony. In a parallel to the melodrama's trial conventions, the conflict between reason and emotion is dramatised and gendered so that it is the female whose non-rational emotional knowledge will be proven correct. The arrival of Mike's newspaper colleague Martin (Cliff Clark) and the subsequent moments in which, Jane having gone home, Martin takes Mike for a drink at a local bar, allow for the interjection of another perspective on the crime that is, in accordance with the archetype of the heavy-drinking newspaperman, heavily cynical. Flinn argues that Martin personifies 'the congenital cynicism of the [noir] genre',⁴⁴⁷ and his protestations that "there's too many people in the world anyway" before ushering Mike back to the court with the line "go in there and earn your raise" presents to

⁴⁴⁷ Tom Flinn, 'Three Faces of *Film Noir*', p. 35.

Mike the image of a possible future self, desensitized by too much interaction with the noir world of crime and amorality. Martin also underscores the fact that, even if Briggs is guilty, Mike's raise will still result from the deaths of two individuals. Both Jane and Martin function here to underline Mike's responsibility in determining Briggs' fate, before the return to the courtroom for the verdict.

This return to the courtroom corresponds to a set of alterations to the mise-en-scène that foreshadows the expressionistic aesthetic of the later nightmare trial sequence. This is signified immediately when the familiar establishing shot of figures filing back into the courtroom is viewed through a previously unseen metal grid that spans the width of the frame (Fig. 81). There is a cut to a frontally shot view of the arrival of the judge (Fig. 82). The camera pans right as he walks to the judge's box, with the lighting casting ominous (and distorting) shadows on the wall behind him that dissipates into more naturalistic lighting as he sits down. This is accompanied by a previously unseen gravity to the judge's expression. These are our first glimpses of the noir world stylistically intruding into the ordered and ordinary, choices that ambiguously reflect the subjectivity of Briggs and/or Mike.⁴⁴⁸

⁴⁴⁸ As in *Scarlet Street*, the style can be said to reflect more than one individual's experience of the courtroom.



Figs 81 (top) and 82 (bottom)

The treatment of the reading of the verdict also utilises expressionistic stylistic choices. From a medium close-up of the judge there is a cut to the jury foreman, stood in the centre of the frame (Fig. 83). The foreman's direct address to the camera posits this shot as a subjective one aligned with Briggs' point of view (especially when considered in relation to the positioning of the characters in the previous shots) as he states "Yes your honor. We find the defendant guilty of murder in the first degree." The possible subjective shot again demonstrates the play with identification and viewpoint, and in this particular instance creates a sense of personal nightmare that will become more forceful later. The shot's non-naturalistic strategies (with its unusual composition and staging as the foreman, flanked by dimly lit jurors, looms over the viewer) contrasts with the respectful

form of the golden age courtroom sequence, as do the aforementioned choices, by emphasising subjectivity.



Fig. 83

The guilty verdict induces another hysterical outburst from Briggs, to the extent that he is forcibly removed from the courtroom. This event is depicted almost entirely in one tracking shot that follows the detained Briggs along the far left of the courtroom but which views him through a gridded partition. The use of such imagery – shooting through or cutting up the frame with grids, bars, or other vertical or horizontal line effects – is a staple of noir’s visual style, inherently suggestive of entrapment and enclosure.⁴⁴⁹ The shot also functions as another of the increasingly more frequent, ambiguously-situated-as-subjective shots in the latter part of the sequence, as Briggs holds on to the grid and calls out to Mike “Mr. Ward! Mr. Ward! I didn’t do it, you know I didn’t do it!” These combined elements demonstrate the intrusion of expressionistic noir stylistics into the film, and it is telling that this intrusion, which in turn signals the beginning of Mike’s descent into the personal nightmare of the noir world, coincides with the point of the trial at

⁴⁴⁹ One famed example occurs in the following year’s *The Maltese Falcon* (Dir: John Huston, 1941), in which the horizontal lines of an elevator cage evoke prison bars, a visual parallel made because the character taking the lift (the film’s femme fatale, Brigid O’Shaughnessy [Mary Astor]), has just been arrested.

which the law must be seen at its most objective and infallible. The final shot of the sequence begins with Mike in medium close-up, his eyeline following the off-screen Briggs out of the courtroom as the latter continues to yell out to him. Mike then suddenly tilts his head upwards, and the camera cranes up and rapidly tracks in on the statue of justice that hovers over the courtroom, the low-key lighting casting imposing shadow effects (Fig. 84). The statue of Lady Justice is a symbol of a natural ideal of law whose immutable accessories (the blindfold, the scales, the double-edged sword) represent the qualities of this ideal: impartiality, reason, and blind justice. Despite (or perhaps because of) its overt resonance, Lady Justice is often absent from the iconography of the courtroom and, when present, usually placed in the courthouse exterior.⁴⁵⁰ In this instance, the statue's appearance acts as the final emphatic and ironic reminder of the abuses of justice that have occurred in the courtroom. For many reasons, including the sombre scoring, this shot simultaneously typifies the noir's social critique, visual style and pessimistic tone whilst departing drastically from the golden age representational strategies. This includes the mobility of the camera. Place and Peterson note that 'camera movements are used sparingly in most noir films [...] What moving shots that were made seem to have been carefully considered and often tied very directly to the emotions of the characters'.⁴⁵¹ Thus one can interpret that this moment is a crucial one in the construction of the scene's meaning. Secondly, an elaborate camera movement that is unmotivated by character movement presents another rupture to

⁴⁵⁰ Perhaps a more conventional usage of the statue (and an inverse of its appearance in *Stranger on the Third Floor*) appears in *The Tattered Dress* [Dir: Jack Arnold, 1956] when, in the film's final shot, the camera tracks out and pans right to position in the centre of the frame the statue outside of the courthouse (another example of the affirmative symmetrical compositions I outlined in my first chapter) while the triumphant score introduces the "The End" credit. The statue appears at a point in the narrative where justice has finally been enacted. Thus the particular treatment of the statue affirms the possibility – indeed, the inevitability – of natural justice.

⁴⁵¹ J.A. Place and L.S. Peterson, 'Some Visual Motifs of Film Noir', p. 32.

the respectful form of conventional trial depiction. With the discourse of the law fully (and overtly) undermined, its failings become apparent and Mike is left only with his own guilt.



Fig. 84

The narrative function of the initial sequence, eschewing notions of the trial as a narrative form that embodies closure and (relative) certainty, serves to invoke disequilibrium and steadily undermine affirmative assumptions regarding the legal system as it questions Briggs' guilt and the court's processes of truth-finding. The dispersal of viewpoint focuses on the perspectives of the key legal outsiders – Briggs, Mike, and Jane – and in no way is a legal point of view affirmed. The sequence's project involves undermining ideological notions of a legal system working in the best interests of all, instead moving away from the symbolic to depicting the fallible, apathetic individuals causing the system to fail. Having become aware of these failings, Mike begins to question the normal world around him, and thus the first trial sequence initiates the heavily psychologised second act of the film.

The sentencing of Briggs constitutes a turning point in the film's dominant representational strategies, culminating in the nightmare sequence that reflects the

anxieties governing Mike's internal state: his guilt over Briggs, his fear of being accused of Meng's murder, and myriad other feelings that Mike may not be consciously aware of. In order to ascertain how the film leads to this extended nightmare sequence, I will consider the material bridging the initial trial and the nightmare. This material is intensely focused on Mike's state of mind following Briggs' sentencing, and is accompanied with a more overt departure from the relatively more classical strategies of the establishing sequences and the (majority of the) first trial, transitioning into a noir narrative method that is dominated by the subjective strategies Telotte associates with noir's voice, including voiceover narration and multiple flashback sequences. This transition makes apparent the subjectivity underlying all acts of verbal communication, observation and evaluation, which is important to further undermining the assumed objectivity of the legal discourses previously presented.

From the first trial's final image of the statue of Lady Justice, there is a fade to a shot of Mike alone at his desk in the press room. The cleaning lady arrives, establishing that it is late at night. This emphasises Mike's solitude and the domesticity that he lacks but longs for, an association that is bolstered by the following deflating phone conversation he has with Jane. Mike leaves the office and pauses in the corridor as he passes the open door to the courtroom. The following shot of the courtroom elicits a low chime from the score followed by Briggs' protestations of "I didn't do it!" heard on the soundtrack. The use of sound thus aligns us with Mike's subjectivity, and it is this moment that triggers the voiceover narration that dominates the rest of the sequence as we hear Mike attempt to reassure himself "Of course he did it."

Mike's following walk home is presented largely through a tracking shot which is accompanied by an uninterrupted, near stream-of-consciousness voiceover, a commentary on the memories and feelings that the external world evokes in Mike. It is here we realise, as Mike walks past and (via voiceover) comments on Nick's café, that the scene of the crime is located directly across the street from his apartment building, presenting a sense of inescapability from the crime that augments the feelings of claustrophobia and guilt. The voiceover narration is not used in conjunction with flashback at this point. Rather than providing a relatively assured act of narrativization that looks back on past events with a reasonable (even if deceptive) sense of the protagonist's objectivity, the immediacy of the voiceover narration emphasises Mike's inability to shake off his feelings of guilt and doubt. The voiceover exhibits an almost conversational fluctuation between opposing streams of thought within one individual, as when Mike thinks "after all, I didn't see Briggs actually kill Nick. And all the rest of the evidence was circumstantial, too. So what? That doesn't make it less reliable." Issues of reliability (or the lack thereof) are central to noir narration.⁴⁵² Here voiceover and flashback are used not to posit Mike as a knowingly unreliable narrator, but to undermine the reliability of, firstly, any human mind, and secondly, the court's methods of determining guilt and innocence, further developing the themes that were established in the trial sequence.

Mike then passes the titular Stranger (unbeknownst to him, Nick's actual murderer) outside his building. The voiceover returns inside Mike's apartment,

⁴⁵² See Steven Neale, 'Film Noir' in *Genre and Hollywood*, p. 168 and Imogen Sara Smith, *In Lonely Places*, p. 4.

reiterating Mike's hatred of his "gloomy" apartment building, his affection for the "poor kid" Jane and his disgust with the "animal next door" Meng, whose snores can be heard on the soundtrack. This incurs the first flashback detailing Mike's run-in with the snooping Meng and his landlady (Ethel Griffies). Back in the narrative present, Mike encounters the Stranger again as he walks back out into the corridor outside of his apartment. This time the Stranger is leaving Meng's room. Following a short chase in which the Stranger rushes out of the building, Mike retreats indoors again, but the stream-of-consciousness voiceover now articulates his concern on noticing the silence from Meng's room: ("Is there something wrong with him? That man! Maybe he did something to him. Maybe he killed him. What's the matter with me?") The voiceover narration which has heretofore worked to convey a subjectivised uncertainty, now begins relating this uncertainty/subjectivity to neurosis ("what's the matter with me?").

Our protagonist's concern then turns to how the discourse of the courtroom could translate the current scenario into one that "proves" he is the guilty party. Mike goes to touch the doorknob on Meng's door before another disembodied voice intrudes on the soundtrack to intone "You forgot that fingerprints will always give you away." This moment is pivotal as the first instance of the discourse of the courtroom being turned against Mike. He will now be exposed to the full failings of the trial's processes as he begins to realise how easily the murder of Meng – which, we should recall, we are not sure has occurred – could be blamed on him. Mike explicitly begins to connect his current situation with that of Briggs ("Why should they think I had anything to do with it? But why did I think Briggs was guilty?) and here he realises that, in a parallel of Briggs' relationship to Nick, he has motive for

killing Meng, a fundamental desire to, and witnesses who could testify to this desire, as the two following flashback sequences will prove.

The two short flashback segments do not solely demonstrate legal motive whilst absolving Mike of all guilt. Instead, the issue of unconscious desire and psychological guilt pervade them, implicitly undermining both the “objective” methods that are worked through in the courtroom to reach a legal designation of innocence or guilt, and the goal-oriented, motivated protagonists of classical convention. Krutnik, who roots his discussion of *Stranger* in the popularisation of psychoanalysis during the 1940s and the corresponding focus on the psychology of crime in many of the decade’s noir thrillers, details the ‘circuit of conflicting desires and motivations which operates far beyond any simple cause and effect logic of the plot’.⁴⁵³ Krutnik argues that the flashback structure, content of those flashbacks, and mise-en-scène of the nightmare sequence reveal Mike’s simultaneous desires to kill Meng (the latter acting as a projection of Mike’s own sexual frustration) and to receive punishment for this homicidal desire.⁴⁵⁴ The film invites the psychoanalytic reading that Krutnik provides with its ‘rupturing of the boundaries between the subjective and the objective’, the noir conventions connecting for Krutnik to notions of the Freudian Uncanny that are borne out by the proliferation of doubles and doublings within the film.⁴⁵⁵ These include the parallels between Mike and three other male figures within the film: firstly Meng, the projection of Mike’s frustrated sexual desire; secondly, Briggs, who similarly to Mike is accused of a crime he did not commit; and finally, the titular Stranger, who

⁴⁵³ Frank Krutnik, *In a Lonely Street: film noir, genre, masculinity* (London: Routledge, 1991), p. 49.

⁴⁵⁴ *Ibid.*, pp. 48-49.

⁴⁵⁵ *Ibid.*, p. 49.

acts out the murder of Meng that Mike desires. But it also includes the two courtroom trials contained within the diegesis.

The film also exhibits an awareness of and engagement with the Freudian concept of transference, which once again anticipates readings of Hitchcock's films. Rostron, discussing the criticism on Hitchcock by the writers of *Cahiers du Cinéma*, states that:

the French critics [...] argued that each of [Hitchcock's] movies features a transfer of guilt, in which an innocent but weak central character is stained by somehow capitulating to a stronger, evil double [...] the Hitchcockian theme of guilt transfer parallels the Freudian concept of transference by which emotions associated with one person unconsciously shift to another. The protagonists of Hitchcock's films, while innocent as to action, are guilty as to desire. As Freud wrote, "It is a matter of indifference who actually committed the crime; psychology is only concerned to know who desired it emotionally and who welcomed it when it was done."⁴⁵⁶

The undermining of conscious intent and motivation (central to the workings of the American criminal justice system) is, as I have discussed, another recurrent feature of film noir or noir-inflected films of the 1940s. The short flashback sequences in *Stranger* not only present how Mike's articulated desire to kill Meng could be used evidentially in the courtroom, but also exhibits an awareness that, in an extra-legal sense, Mike is guilty, of the charges of 'emotionally desiring' Meng's death and 'welcoming it when it was done'.⁴⁵⁷ Thus, the material bridging the two trial

⁴⁵⁶ Allen K. Rostron, 'Lawyers, Law & the Movies: The Hitchcock Cases,' pp. 225-233.

⁴⁵⁷ This also helps to explain why both flashbacks implicitly link Mike and Meng in a shared sexual frustration, particularly in the latter sequence when Meng and landlady interrupt Mike and Jane when the young couple have taken shelter from the rain in Mike's apartment. From one perspective the viewer is positioned to see Mike and Jane's retreat to his apartment as innocent and share with Mike an anger at the intrusion of Meng and the landlady - Jane has been reluctant to enter the apartment initially, and the couple have not and are not engaged in any sexual activity when they are interrupted. But the cat-and-mouse interplay of the moments prior to the interruption, with Jane moving around the room, attempting to move the conversation away from romance as Mike paces after her, strongly suggests that Mike is guilty of attempting to seduce Jane - and that, like his neighbour, who almost gleefully exclaims "look at her legs" upon barging in on the young couple, his "mind could use a little laundering".

sequences has emphasised Mike's subjectivity through the voiceover narration and flashbacks. With this explicit focus on subjectivity emerges concerns of the impossibility of defining truth and guilt, and the ease with which unjust "truth" narratives can be constructed in the courtroom.

This alignment with Mike's subjectivity is then intensified by the use of the dream device. Whereas the earlier trial is collectively observable, the nightmare trial has no existence outside of Mike's head, meaning that the sequence becomes *about* Mike's psyche. Although one way of handling this dream could have been through inviting a popularised psychoanalytic reading,⁴⁵⁸ I would argue that, despite the highly stylised mise-en-scène, the film invites the spectator to read its dream content differently. The dream sequence functions as the externalisation of the dreamer's psyche, but this film encourages the spectator to read the elements of the dream in light of the world presented elsewhere in the narrative, as mirrored images rather than as abstract symbols.⁴⁵⁹ Walters, discussing the imagined worlds of the filmic dream sequence, notes that 'a great many present the dream as a stable, logical and discrete environment [...] they function in the film as 'worlds' in their own right, contained within the wider fictional world of the film'.⁴⁶⁰ The stability and logic of Mike's nightmare, particularly in relation to his nightmare trial, stems (partly) from its being rooted in the film's wider fictional world. Thus, the spectator

⁴⁵⁸ Noir's emergence coincided with the North American popularisation of Freud's theories on dreams as expressions of the subconscious. Freud was an influence on the dream sequence of *Spellbound* (Dir: Alfred Hitchcock, 1945) for example, where the mise-en-scène of the dream appears as clues to the subconscious of the dreamer.

⁴⁵⁹ The famous dream sequence that constitutes much of the action of *The Wizard of Oz* (Dir: Victor Fleming, 1939) can be considered similarly with the characters encountered mirroring the individuals who surround the dreamer in her waking life (a parallelism exacerbated by the casting of a number of the actors in dual roles, playing one character in the dream world and another in the real world of the film).

⁴⁶⁰ James Walters, *Alternative Worlds in Hollywood Cinema* (Bristol; Chicago: Intellect Books, 2008), p. 46.

is invited to see as many connections in the dream to the film's real world as departures from it, a mode of interpretation augmented by the embedded conventions of the trial form itself, which roots the dream in an existing logic which it can subvert or exaggerate, but not ignore entirely. These choices encourage the spectator to interpret the dream sequence as a critique of structures of the everyday world, which it heightens in its representational strategies but does not defamiliarise entirely.

The trial is the lengthiest section of a sequence that presents grotesque subversions of the entire judicial process, from questioning through incarceration and punishment. Immediate reference points for making sense of the sequence are the multitude of ironies that emerge through the variations on situations presented earlier in the film, augmenting the sense of the uncanny that Krutnik notes. For example, Mike is at the sequence's start at the mercy of his colleagues, who bombard him with questions about Meng's murder. Mike's cries of "I didn't do it" echo the earlier courtroom protestations of Briggs. The parallels between Mike and Briggs – the former effectively becoming the latter in terms of situation and behaviour over the course of the sequence – are increasingly emphasised. Briggs' inept defence attorney returns in exaggerated form as Mike's legal counsel, who laughs at our hero's protestations of innocence and recommends he make a guilty plea.

The subsequent nightmare trial utilises a series of conventions that are doubly familiar to us through both the film's own earlier trial sequence and the intertextually-constructed expectations of the filmic trial. These conventions are systematically distorted in order to show the ease with which the supposedly infallible workings of the legal system can result in gross injustices, producing what

Rosenberg considers ‘a bizarre mix of legal incompetence and faithful adherence to “neutral” process’.⁴⁶¹ It is through the adherence to the earlier sequence that the point is conveyed most clearly: the legal system of reality and that of nightmare share as many similarities as they do differences.

Of course, distinctions between the trials are still made, most forcefully through stylization. Throughout the nightmare sequence, the heightened visuals recall (as Flinn notes) the strategies of German Expressionism, with the nightmare scenario allowing Mike’s mental state to be externalised through the *mise-en-scène* without interrupting the (semi-)naturalistic depiction of a recognisable world elsewhere in the film. Recognisable settings are depicted using expressionistic techniques that convey Mike’s internal state, including low angles and painted backdrops that configure New York’s skyscrapers as symbols of an encompassing claustrophobia, and outsized set designs that emphasise Mike’s isolation in his darkened jail cell. The expressionistic elements continue into the trial portion of the nightmare, emphasising the alignment with Mike’s psyche, and often working in direct contrast to the classical impulse of trial depiction. For example, non-diegetic scoring, infrequently employed in many classical trial sequences, is present through this sequence, accentuating the delirious excess of Mike’s nightmare. Likewise, the pivotal elliptical shot transitions – i.e. transitioning from one witness on the stand to the next – are dissolves occasionally overlaid with kaleidoscopic morph effects. The style renders the known elements of the *mise-en-scène* in a distorted and disorienting manner.

⁴⁶¹ Norman Rosenberg, ‘Hollywood on Trials’, p. 351.

The trial portion of the nightmare commences with an establishing shot of the courtroom (Fig. 85). One could consider this long shot conventional if solely examining its composition, as it adheres to a respectful framing of the key figures.⁴⁶² But the mise-en-scène otherwise offers a radical distortion of what we expect from the diegetic space of the courtroom. The statue of Lady Justice, the last image presented in the earlier trial, now hovers over the rest of the court in mid-frame, seemingly suspended by nothing. Its presence emphasises the sense of this trial as, simultaneously, a bizarre distortion of what we have seen earlier and the logical continuation of how the earlier trial was represented in its final moments. The chiaroscuro lighting casts jagged light patterns on the walls, slicing up the image in a manner again redolent of prison bars. These shadows cast a large and uneven pattern that is overtly non-naturalistic. They could not feasibly be cast by any element of the court space, and in their possible suggestion of flames they also invoke the iconography of Hell. Throughout the sequence the presence of the shadowy background ensures that the mise-en-scène remains unnatural in much the same manner as the lighting effects of the trials in *Scarlet Street*, *Dial M for Murder* and *The Night of the Hunter* (Dir: Charles Laughton, 1955).

⁴⁶² This includes placing the defendant and defence attorney on the left of the frame, the jury on the far right, the prosecutor stood in the centre of the frame addressing the jury, and the judge in the background but on a raised platform that positions him higher in the frame.



Fig.85

The establishing shot is presented during the prosecutor's opening statement (again in line with conventional trial depiction). The following shot draws our attention to firstly, the prosecutor, who we now see is the same individual as the prosecutor in Briggs' trial, and secondly, the sleeping jury on the right of the frame, their heads bowed down in unison in a paradoxical assertion of both their human fallibility (a reminder of the sleeping juror in the earlier trial) and their inhuman unresponsiveness to the truth.⁴⁶³ On Mike's first protestation of his innocence, there is a cut to a shot of the judge – again presented as the nightmare double of the judge at Briggs' trial. The low-key lighting and O'Shea's shift in performance style reconfigure the judge from an ineffectual, near-comic individual to a monstrous one, as he exclaims forcefully "The defendant will refrain." The repetition of this line and action within the sequence conveys Mike's powerlessness and the silence enforced upon him. Pivotal to this is all in line with trial convention, and exemplifies Telotte's argument that noir demonstrates the power 'of our cultural discourse to permit speech and to impose silence'. The device of the nightmare also

⁴⁶³ The sudden inability of the dreamer to be heard or seen by other individuals within the dream is a trope of the Hollywood dream sequence that is often employed in the dream ballets of musicals of the period, including *Oklahoma!* (Dir: Fred Zinnemann, 1955) and *An American in Paris* (Dir: Vincente Minnelli, 1951). I wish to thank Helen Palmer for this observation.

constructs a relationship between the noir techniques employed and the Kafkaesque. The nightmarish aspect of the court with its overt biases and failings (including its refusal to allow the defendant an opportunity to present their case) protected by their status as part of a ‘neutral process’ recalls Kafka’s *The Trial* (1925).⁴⁶⁴

The sequence progresses to its witness testimonies, which present the film’s two most prominent female characters, Jane and Mike’s landlady. The differences in how the two are depicted on the witness stand visually signifies their relationships to Mike and to the nightmare legal institution. The landlady occupies the left of frame with the prosecutor leaning semi-casually on the arm of the witness box to her right during her testimony (Fig. 86). Both witness and prosecutor are positioned facing outwards towards the off-screen Mike, whom the landlady points at as she exclaims “He has a vicious temper, always picking fights. Once he almost struck me.” The pace of her speech is so rapid that interjection is impossible, and Mike’s repeated attempts to do so only incur the judge’s repeated intonation of “the defendant will refrain.” Judge, prosecutor, and witness all appear to be in league with a trial system that denies the defendant any right to speak while simultaneously granting the witness the opportunity to exaggerate or distort the truth. The ambiguous subjective shots of the earlier trial’s closing moments reappear as the landlady misquotes Mike’s threat to Meng. Her version “He told him ‘You’ll be sorry for this. I’m going to kill you!’” does not correspond to the truth seen in the waking flashback but is permitted by the nightmare court.

⁴⁶⁴ I will return to the relationship between law noir and the Kafkaesque in my discussion of *The Lady from Shanghai*.



Figs. 86 (top) and Fig. 87 (bottom)

A kaleidoscopic fade effect transitions to Jane's testimony. She is presented in a high angle shot, her victimisation stylistically rendered through both the angle and the oversized design of the witness box, which serve to minimise her presence as an individual within the intimidating spatial structures of the court. She looks up at the off-screen prosecutor as he states "Do you realise you're under oath to tell the truth, the whole truth, and nothing but the truth?", followed by her response ("I do.") A cut retains the menacing high angle, but now also incorporates the prosecutor into the frame as he leans forward (Fig. 87), looming over Jane as he

questions her on the incident in Mike's apartment that was depicted in one of the prior flashback sequences⁴⁶⁵:

[Pros.] "Did he say 'before I kill him'?"

[Jane] "I- I don't remember!"

[P.] "Would you swear he didn't say it? Would you? [*Points at Jane, then repeats more aggressively*] Would you?"

[J.] "No! No I wouldn't!"

At this point Jane crumbles, placing her head in her hands as the District Attorney walks out of frame right. There is a cut to a subjective shot of Jane, who looks up at Mike/the spectator before stating "I'm sorry Michael. I had to tell the truth." The direct address recalls the latter part of the earlier trial sequence, only with Mike in place of Briggs as the eye/I of the subjective shots. This again links the two men, and puts the audience in the place of the individual victimised by the law.⁴⁶⁶ The Jane of Mike's dream remains the good girl, but the irony of this moment is that it is her passive, stereotypically feminine quality that condemns Mike as the nightmare legal system pressures her into "telling the truth".

Mike's questioning follows, initially presented in a noir mutation of the conventional triangular formation of testimonial depiction (Fig. 88). However, similarly to the establishing shot, the composition is the sole intertextually familiar and conventional component of the *mise-en-scène*. The prosecutor's questions, and Mike's responses, are limited to the following exchanges:

⁴⁶⁵ This is the earlier scene in which Meng and Mike's landlady barges in on the young couple and the former insinuates that they have met for a sexual tryst. An enraged Mike grabs Meng and warns him the landlady to throw him out "before I kill him".

⁴⁶⁶ It is a device which we have seen in the earlier trial, and which also features in the noir-inflected trials of *Leave Her to Heaven* and *The Wrong Man*.

[Pros.] “You hated Meng, didn’t you?”

[Mike] “Yes, but I didn’t kill him.”

[P.] “Did you ever think of killing him?”

[M.] “I don’t know. I might have.”



Fig. 88.

This dialogue demonstrates the degree to which guilt is (for Mike) linked to desire. His psyche – the auteur of Mike’s dream - situates the mere thought of murder as tantamount to legal guilt. Rosenberg notes that ‘Mike joins other noir protagonists in recognizing the possibility that their own speech, when represented and translated into legal discourse, may return to haunt them’.⁴⁶⁷ The issues of speech, silence and translation again come into play in the following moments as Mike stands up, approaches the jury and attempts to explain himself to them. The convention of our protagonist being granted the opportunity to give an impassioned speech to the diegetic courtroom audience that induces the empathy and understanding required to win them over, is one that appears in more conventional contemporaneous trial representations, including *Dust Be My Destiny* and the trial

⁴⁶⁷ Norman Rosenberg, ‘Hollywood on Trials’, p. 351

scenes in several films directed by Frank Capra.⁴⁶⁸ Such scenes depict a court system in which everyone gets their chance to speak, demonstrating the power of legal discourse to democratically permit speech rather than impose silence. However, here the jurors continue their collective slumber, unable and unwilling to listen or respond to Mike's appeals. When he realises their condition, Mike asks "Why aren't you listening to me?" before appealing to the judge "Make them hear me, they've got to!" There is a cut to a medium close-up of the judge, lit from below to assert his monstrosity as he shouts his final, and most intimidating, chorus of "The defendant will refrain!" (Fig. 89). The imposed silence of the legal outsider has been again underlined.



Fig. 89

⁴⁶⁸ The "Capra picture", typified by films such as *Mr. Deeds Goes to Town* (Dir: Frank Capra, 1936) and *Mr. Smith Goes to Washington* (Dir: Frank Capra, 1939), foreground social issues while maintaining a primarily comic, populist tone, with films such as the aforementioned *Mr Deeds* and *You Can't Take it With You* (Dir: Frank Capra, 1938) featuring significant trial sequences in which the courtroom plays a major part in resolving the narrative. One telling quote regarding the perception of Capra's courtrooms and the antitraditional form of noir comes from *Force of Evil*'s director, Abraham Polonsky, who remarked, on the decision to omit courtroom material from his film: 'Committing to law and order is liberal, is a [Frank] Capra ending. Which is okay, but I didn't write a Capra picture' (see Interview with Abraham Polonsky in Schulteiss and Schaubert (eds.) *Force of Evil: The Critical Edition* (Northridge: California State University, 1996), p. 180; quoted in Norman Rosenberg, 'Looking for Law in All the Old Traces', p. 1469.) Here we hint at the meanings attached to the use of a classical courtroom sequence – which Polonsky considers 'committing to law and order' – and the generic basis of different depictions of the law. Polonsky's reluctance to give his film a 'Capra ending' demonstrates the dominant implications of a conventional use of the courtroom in classical Hollywood and the desire by noir filmmakers such as Polonsky to avoid this.

Another comparison between Mike's nightmare treatment and the trial of Briggs becomes evident as guards attempt to hold Mike down in the court. It is here that the Stranger himself appears, in medium shots of him clambering over what bear a striking similarity to movie theatre seats. The spatial illogic of this moment underlines the sequence's lack of naturalism, while the appearance of the seating forms a subtle critique of the trial's underlying similarity to a theatrical spectacle. Mike's attempts to alert the court to the presence of the actual culprit go unheard, and the inclusion of the guards mean that the following verdict and sentencing are presented with Mike physically restrained, again underlining his own powerlessness. The judge requests the verdict, which is presented in a long shot incorporating the judge in foreground left, Mike (being held by the guards) in the mid-foreground, and the jury in the background right. The procedure of established convention is upturned as, instead of the sole foreman, the jurors stand in unison, their faces remaining obscured through the lighting as they, in unison, point at Mike and shout their "Guilty!" verdict. There is a cut back to the judge, stood upright just off-centre frame with the D.A. positioned in the lower left, as the former presents his sentencing (Fig. 90). Framing the two figures together unites them and the institution they represent in opposition to Mike. There is a loud sting on the score as the judge then morphs into the statue of Justice. The final shot of the nightmare's trial parallels the equivalent moment in the earlier trial sequence, as the camera then tracks in on the image of Lady Justice.



Fig. 90.

The nightmare trial thus functions as both a bizarre exaggeration and a logical extension of the earlier trial scene, a doubled reading that it invites through the nuances of its play with the surrounding “real world” material. Our understanding of the scene relies crucially upon its use of the trial scenario, which is doubly familiar from both the earlier scene and as a broader cinematic convention. The nightmare trial casts Mike in the role he helped to place Briggs in in the previous scene, but sustains the expressionistic alignment of the *mise-en-scène* with the defendant’s subjectivity that was less consistently displayed in the prior trial. Its excesses are narratively justified by its status as a dream. Referring in part to this film’s nightmare trial sequence, Krutnik argues that

such ‘italicised’ moments convey, in a displaced manner, the effects of extreme violence, perverse or corrupt sexuality or moments of psychic breakdown. During the 1940s, and particularly within the generic space of the ‘tough’ crime thriller, such sequences represented a standardised means of simultaneously signifying and siphoning-off excess. Rather, then, than representing an alternative to or transgression of the classical Hollywood norms, the ‘*noir* stylistics’ were very much an integral part of the systematisation of Hollywood’s narrative regulation during the 1940s.⁴⁶⁹

⁴⁶⁹ Frank Krutnik, *In a Lonely Street*, p. 20.

I think that Krutnik's argument can be complicated when aligned with my analysis. I have noted that many of the sequence's strategies of excess were introduced in the earlier sequence, thus allowing the nightmare to be viewed as a logical continuation, rather than radical departure from, the film's representation of the legal system. This nightmare also acts as our only window into the real-life processes of Mike's interactions with the law following this sequence, standing in for the actual experience in a way that invites the audience to infer that it would not be dissimilar to Mike's actual incarceration. Although ultimately 'narrative regulation' is achieved through the happy ending, a consistent and transgressive treatment of the legal institution as highly fallible is integral to the film's meaning. The two trials, and the material bridging them, problematize the attempts at constructing an objective "truth" in the courtroom, question issues of legal language and translation, and challenge traditional models of explanation and judgment by emphasising a number of themes that would come to be associated with noir narratives, including unconscious motives and desires, internal guilt, doubt and chance, and the overall prioritisation of subjective devices. Both sequences diverge from standard, positive depictions of the law, in the process effectively introducing a number of the strategies and related meanings of the noir genre, and articulating noir's essential difference from the convention and tradition exemplified in typical uses of the trial sequence.

“This trial keeps getting screwier all the time”: The Courtroom’s Place in the World
(Gone Insane) of *The Lady from Shanghai*

The Lady from Shanghai was released in 1947, seven years after *Stranger on the Third Floor*. Its trial scene is depicted in a highly stylized, non-naturalistic manner without being situated as a dream, thus making possible an even more sustained and overt critique of the adversarial trial system. I intend to consider how the film enacts this critique by systematically analysing how it subverts each of the conventions of courtroom trial depiction I outlined in my first chapter and to demonstrate the patterns of violation that are evidenced across noir’s depictions of courts and law.

The Lady from Shanghai has been cited as an essential addition to the noir canon.⁴⁷⁰ This classification owes partly to the involvement of Orson Welles, the film’s director, producer, leading actor and co-writer, whose *Citizen Kane* is considered one of the earliest propagators of noir’s expressionistic visual style and complex narrative structure,⁴⁷¹ and whose filmography contains other films frequently classified as noir.⁴⁷² The film exhibits a variety of noir conventions including a convoluted narrative (which contains at its centre the male protagonist’s deadly interaction with a woman to whom he is inextricably drawn), first-person voiceover narration, a flashback structure, and a visual style that serves to distort and disorient. The film exemplifies Walker’s configuration of noir narratives as revolving around the protagonist’s interaction with a ‘noir world’ of criminality that

⁴⁷⁰ See James Damico, ‘Film Noir: A Modest Proposal’, p. 103 in Silver and Ursini (eds.), *Film Noir Reader*.

⁴⁷¹ Biesen (2005, p. 12) and Dimendberg (2004, p. 5) both situate *Citizen Kane* alongside *Stranger on the Third Floor* as prototypical noir.

⁴⁷² *The Stranger* (Dir: Orson Welles, 1946) and *Touch of Evil* (Dir: Orson Welles, 1958).

moves ‘*inside* the disturbed protagonist’ as he becomes entangled with it.⁴⁷³ But this disturbance is intensified to the degree that the film’s narrative and formal strategies appear exaggerated even by the standards of noir. This results in an unusual paradox of *The Lady from Shanghai* both exemplifying and exaggerating noir’s qualities, to some degree violating the norms of a form that is defined by its violations of previously existing norms. This is a paradox invoked by Arnott’s claim that the film displays ‘a deliberate undermining of the classic film noir style but it is this very subversiveness that evokes the essential spirit of the genre’.⁴⁷⁴ I would like to consider this paradox in order to begin thinking about how the film invites us to read its trial scene.

⁴⁷³ The following is a plot summary of the film: Michael O’Hara (Orson Welles) is an Irish sailor who meets Elsa Bannister (Rita Hayworth) by chance in New York’s Central Park. Michael rescues her from three attempted attackers and she subsequently offers him the opportunity to work for her husband as a seaman aboard the Bannisters’ yacht. Michael denies the request, but is persuaded after a visit by Elsa’s husband, Arthur (Everett Sloane), a world-famous criminal lawyer. On board the yacht, Michael quickly becomes romantically involved with Elsa despite his awareness that the Bannisters and Arthur’s law partner George Grisby (Glenn Anders) are, at the very least, morally dubious characters. Grisby privately proposes to Michael that he agree to “murder” him as part of a plot to fake his own death, promising him a sum of money and, due to a legal technicality, no chance of imprisonment for the crime. Although again dubious, Michael realises he can use the money to elope with Elsa, and so agrees to sign a confession for Grisby’s murder. The night of the “crime” arrives. While Michael proceeds with his actions as part of the agreed-upon plan, Grisby is confronted by Sidney Broome (Ted de Corsia), a private investigator working for Arthur, who has become aware that Grisby intends to murder Arthur and frame Michael for his death while faking his own. Grisby shoots Broome, who lives long enough to firstly inform Elsa of Grisby’s plot to murder her husband and secondly, let Michael know that he is being set up for this murder. Michael rushes to Arthur’s office, where it is discovered that it is in fact Grisby who has been killed and Arthur who is alive. Michael’s “confession” is found, and he is arrested and placed on trial for Grisby’s murder. Arthur acts as his defence attorney in the trial, and attempts to persuade Michael to plead justifiable homicide. The truth regarding Michael’s relationship with Elsa is made public during the trial, and while awaiting the verdict, Arthur voices the pleasure he will receive in losing the case and insinuates that he is aware of the identity of the actual murderer of Grisby. Michael feigns an overdose of pills in the courtroom while awaiting the verdict, and in the subsequent uproar manages to escape. He is reunited with Elsa in a Chinatown theatre, where Michael realises that it is in fact Elsa who killed Grisby, before he is rendered unconscious and brought to a nearby carnival funhouse. The various schemes of Elsa and Arthur are revealed as the pair confront one another within the funhouse hall of mirrors, before a shootout between the two kills Arthur and mortally wounds Elsa. Michael leaves Elsa to die in the funhouse.

⁴⁷⁴ Jake Arnott, ‘I Love The Lady from Shanghai’, *The Guardian* (2nd June 2004), <<http://www.theguardian.com/film/2004/jun/02/2>> accessed 01 September 2015.

Walker's conceptualisation of the noir world is particularly useful to considering this exaggeration. Its relevance is marked in both the negative references made to a collapsing world in the film's dialogue (with a protagonist who considers it a "bright guilty world" and another character convinced of an impending nuclear apocalypse), and in how consistently the literature on the film refers back to its "world". The main divergence from Walker's conceptualisation is that in this instance it could be argued that the entire film exists in the noir world. Unlike *Stranger on the Third Floor*, *The Lady from Shanghai* exhibits no normality upon which noir intrudes. Bessy describes the film as 'the sumptuous, hallucinogenic and baroque re-creation of a world in the process of disintegration',⁴⁷⁵ a process that is in occurrence from the outset due to, as Telotte argues, the lack of a legible framing device from which Michael's voiceover emerges. The voiceover simply accompanies the opening images, so that the entire film, in effect, constitutes a flashback. Telotte argues that this means 'we find ourselves placed not in a world *within* which disturbing events occur, but in a world *of* disturbance – a realm conjured up precisely because a mind is troubled'.⁴⁷⁶ Bessy's use of the term baroque to describe the film's world is also telling in that the 'baroque' is one of the ages in the evolution of genre as posited by Focillon, a stage summarised by Avisar as 'the stage of parody and subversion'.⁴⁷⁷ It is on the level of parody and subversion that many of the film's aesthetic and narrational strategies operate.

⁴⁷⁵ Maurice Bessy, *Orson Welles* (New York: Crown, 1971), p. 60; quoted in Robert B. Pippin, *Fatalism in American Film Noir*, p. 57.

⁴⁷⁶ J.P. Telotte, *Voices in the Dark*, p. 57.

⁴⁷⁷ Ilan Avisar, 'Time and Representation: Generic Transformations and Historicist Interpretations of Holocaust Films' in Jonathan C. Friedman (ed.), *Performing Difference: Representations of 'The Other' in Film and Theatre* (Plymouth, UK: United Press of America, 2008), p. 220.

This world of disturbance is conveyed through a number of means that seize upon the exaggeration of the familiar. The film uses a familiar noir narrative (the male protagonist's romantic entanglement with a dangerous female already involved with an older love rival⁴⁷⁸) but exaggerates the characterisations so that the desirability of the female and the repulsiveness of her husband are excessively treated (I will return to the film's characterisations in more detail shortly). Another effect of the voiceover is to convey the sense of Michael looking back from a position of knowledge on past events, which allows the establishment of an early awareness of the badness of these characters and the inevitability of their subsequent double-crossing. This exaggerated handling of noir's familiar elements paradoxically renders the film's world instantly legible while working to obscure legibility in the extent and specificity of these exaggerations. We know that Elsa is bad, but the convolutions of the narrative render the spectator's comprehension of her role in the various developments impossible. The disorienting narrative method features recurrent narrative twists, gaps of knowledge between characters within the diegesis and between certain characters and the spectator, and methods of delivering narrative information that favour speed and density over the spectator's (and characters') comprehension. The sound design serves as a literal expression of the noir voice, featuring post-synchronised dialogue and repeated instances of characters talking over each other. This produces a dense soundscape that again blocks the spectator's comprehension. The narrative method serves to disorient the spectator in much the same way as Michael. Both protagonist and spectator demonstrate an awareness that a noir story is unfolding before him, but are unable

⁴⁷⁸ A narrative model previously featured in *Double Indemnity* and *The Postman Always Rings Twice*.

to grasp its intricacies.⁴⁷⁹ This sense of disorientation is augmented by the film's visual style, which again exaggerates the already frequently expressionistic *mise-en-scène* of noir. Justice states that '[r]arely is the camera where it should be, and many shots employ tense angles, claustrophobic or vertiginous vantage points, or chaotic compositions'.⁴⁸⁰

I have mentioned that the characterisations are also integral to the film's exaggerated world. The (self/)destructiveness of the trio of Elsa, Arthur and George is compared, in a monologue given by Michael, to a "crazy pack" of sharks he encountered who tore themselves apart in a frenzy, a foreshadowing of their own eventual fates (the ensuing inevitability of which, post-Michael's monologue, becomes emblematic of the fatalism often found in noir storytelling). But two of these sharks are lawyers, figures of authority and power within the film's world. It is worth considering the characterisations of Arthur and George specifically in more detail here as exaggerations of the typical construction of the lawyer figure in noir, in order to identify what the implications of this are for the film's trial scene. Arthur Bannister's professional reputation looms over the film's narrative developments. In the film's opening sequence (but prior to his introduction proper), Arthur is referred to as a "great criminal lawyer," but this designation is qualified with a recognition of the ethical corruption it entails: Michael argues instead that "greatest criminal" would be a better descriptor for the lawyer who managed to get a man who shot his wife in the head five times acquitted. This attitude is typical of noir

⁴⁷⁹ The level of Michael's confusion is demonstrated by an exchange of dialogue between he and Elsa after they realise George has been witness to one of their personal interactions. Elsa states worriedly "Now he knows about us", to which Michael replies "I wish I did."

⁴⁸⁰ Chris Justice, 'The Lady from Shanghai', *Senses of Cinema* 36 (July 2005) http://sensesofcinema.com/2005/cteq/lady_from_shanghai/, accessed 28th August 2015.

characterisations of the lawyer, which features multiple examples of defence attorneys whose professional brilliance exists alongside an ethical ambivalence.⁴⁸¹ The union of the lawyers' characterisation and the convoluted narratives of noir results in a number of variations on the dramatization of the manipulation of truth and of legal structures. This is exemplified in *The Lady from Shanghai* by George's plan to fake his death without involving an ensuing criminal trial, which is enabled through his knowledge of a legal loophole.⁴⁸² The lawyers of noir frequently use their knowledge of the law to manipulate it rather than serve the normative course of justice. Noir reveals the successful trial defence to be rooted in appearance and narrative rather than truth and fact.⁴⁸³

The characterisations of Arthur and George are also rendered negatively due to their roles in the narrative outside of the legal material, an added element that goes beyond the comparatively flat (if otherwise ambivalent) lawyer characterisations of *The Postman Always Rings Twice*. Arthur's involvement in the narrative's central love triangle establishes a professional conflict of interest that I will further discuss shortly. Asimow, who considers Arthur and Grisby 'two of the

⁴⁸¹ This ethical corruption is demonstrated not only in their lack of concern with the innocence of their clients, but in the manner in which their brilliance takes form in strategy and manipulation, the ends (an acquittal) justifying the means and often bypassing the factual truth. Films such as *Angel Face* and *The Postman Always Rings Twice* depict their defence lawyer characters out of the courtroom as well as in it, in private spaces where strategy and tactics can be openly discussed and presented.

⁴⁸² Namely, that the act cannot be deemed homicide if a body is not found, but that he will also be considered legally dead as long as Michael "confesses" to his murder.

⁴⁸³ Examples are numerous. In *Angel Face*, the defence attorney convinces his two clients, a male and female charged with murder, to marry, assuring them that the District Attorney "wouldn't dare stand in the way of love [...] with a trial coming up". *The File on Thelma Jordan* features a prosecuting attorney who secretly wishes to sabotage his own case for the sake of the defendant, who happens to be his lover. This sabotage involves deliberately introducing the possibility of the "capital punishment" into the trial, which he knows will render a guilty plea less appealing to the jury. In both instances, the desired outcome is reliant upon the manipulation of key courtroom players: judge, jury, D.A., etc.

most disgusting, reptilian lawyer characters ever put on film',⁴⁸⁴ demonstrates that many of Welles' divergences from the source material⁴⁸⁵ in his adaptation portray the lawyer characters more negatively.⁴⁸⁶ One of these is to make Arthur crippled. Davidson notes that 'Welles made him a polio sufferer presumably to link him with a virus associated in the public mind with impotence and physical wastage',^{487 488} which would identify him as an unsuitable husband for Elsa and provide a further contrast with the sexual potency of Michael/Welles, as well as establishing a physical disability that would contrast with his intellectual brilliance.⁴⁸⁹

We can begin to understand then, how the film's world might interact with the courtroom trial convention. The trial form, conventionally committed to order, legibility and closure, is the point where the spectator could reasonably expect the film's style to calm down or its narrative convolutions to be clarified. Instead the baroque representational strategies are continued, clashing with and in effect subverting the conventions of trial depiction. Asimow suggests that the scene works as a 'parody' of 'traditional courtroom movies',⁴⁹⁰ and Justice argues that the film's 'kangaroo court scene [...] shatters our expectations of any official courtroom decorum [...] the entire scene [is] a metaphor for everything the legal system is not

⁴⁸⁴ Michael Asimow, 'Embodiment of evil: Law firms in the movies', *UCLA Law Review* 48 (2000), pp. 1345.

⁴⁸⁵ *If I Die Before I Wake* by Sherwood King (Simon and Schuster, 1938)

⁴⁸⁶ Asimow, 'Embodiment of Evil', p.1346-7.

⁴⁸⁷ Michael Davidson, 'Phantom Limbs: Film Noir and the Disabled Body', *GLQ: A Journal of Lesbian and Gay Studies*, 9:1-2 (2003), p. 67.

⁴⁸⁸ Davidson also detects a homosexual subtext to Arthur and George's relationship (see Davidson, 'Phantom Limbs', p. 67-68), a coding that in the 1940s cinema would also function to demarcate them as others to the physically, sexually and (relatively) mentally normative couple of Michael and Elsa.

⁴⁸⁹ Similarly, the bizarre intonations of George's speech (again part of the film's use of sound as well as image to disturb and disorient) conveys his grotesqueness, and his paranoid fantasies of nuclear apocalypse situates him as an integral element of the pervasive madness of the film.

⁴⁹⁰ Michael Asimow, 'Embodiment of Evil', p. 1346.

supposed to represent: chaos, gamesmanship and frivolity'.⁴⁹¹ The film represents the legal system in a way it is 'not supposed' to be represented. A baroque representational model is implied that seizes upon the exaggeration or subversion of an existing set of conventions.

I propose that the film's courtroom sequence employs and exaggerates the strategies of film noir in order to subvert the conventions of trial depiction and thus enact a critique of the American legal system. The strategies of the sequence anticipate Welles' later adaptation of Kafka's *The Trial*, a film Adams discusses in terms of its use of noir conventions to film the Kafkaesque (which Adams considers alongside noir as a similarly elusive term):

By emphasising the expressionist look of film noir onto *The Trial*, and by emphasising the sense of disorientation, paranoia, and alienation that the noir worldview shares with Kafka's unique rendering of German Expressionism, Welles was able to create the cinematic equivalent of that strong blend of nightmare absurdity and theatrical farce that now goes by the name of Kafkaesque.⁴⁹²

The parallels drawn between noir and the Kafkaesque, and of course the subject matter and tone of *The Trial*, suggest that Welles recognised that noir techniques could be used to critique what he saw as the absurdities of the legal system, and that this recognition is also embedded in the courtroom material of *The Lady from Shanghai*. Indeed, 'nightmare absurdity' and 'theatrical farce' are both terms we could use to describe the earlier film's courtroom trial, and this attitude towards the trial is underlined not only by the absurdity of the narrative context, but its

⁴⁹¹ Chris Justice, 'The Lady from Shanghai'.

⁴⁹² Jeffrey Adams, 'Orson Welles' "The Trial:" Film Noir and the Kafkaesque', *College Literature* 29:3 (2002), p. 141.

emphasis in the protagonist's voiceover narration immediately preceding (and thus setting up) the trial sequence:

The wrong man was arrested. The wrong man was shot. [...] And what about Bannister? He was going to defend me, in a trial for my life, and me charged with a couple of murders I did not commit. Either me or the rest of the whole world is absolutely insane.

Once again the notion of a world of insanity is invoked, immediately prior to a sequence that arrives with its own form and set of conventions. Thus we can expect the insanity that has thoroughly infected the film to in turn infect its treatment of the trial.

A short scene, filmed in one take, bridges Michael's narration and the beginning of the courtroom scene proper, and I wish to look at it in some detail. In the scene, Elsa and Arthur discuss the impending case in one of the courthouse's corridors, their conversation briefly but repeatedly interrupted by moments in which Arthur interacts with both the judge and his opposing attorney, Galloway (Carl Frank). These interruptions serve two functions: the small talk Arthur makes with the other legal professionals (including asking the judge about his child) establishes an image of the legal system as an exclusive network of insiders which links personal connections to professional success, thus subtly undermining the judicial ideals of impartiality and blind justice. It also sets up a contrast between the civil chatter of the legal professionals and the personal dramas and strategizing that constitutes the content of Arthur's conversation with Elsa. Arthur's attempts to convince Elsa that his defence of Michael will convince a jury that "I have reason to believe he's innocent", and that the best tactic for Michael is to plead justifiable homicide, relates to the notion that, in the noir trial, everything is a matter of

strategizing and manipulation: the truth itself is never enough of a defence. It is given another layer of ambivalence due to the murkiness of Arthur's own motivations; his assertion that he wants Michael to be acquitted because otherwise "My wife might think he was a martyr" raises the issue of the cuckolded husband's sexual jealousy and plants the suggestion of an ulterior motive for "defending" his love rival. Once again, a scene that could clarify character motives as the film prepares to enter the courtroom only muddies them further. Part of the film's intensification of noir's disorienting effects is to render the process of relying upon any one character's words impossible, already an indicator of how the discourse of the courtroom will interact with the film's broader representational strategies. I shall now analyse this interaction by comparing the film's trial sequence to the golden age conventions I outlined in my introductory chapter.

The Space of the Courtroom

I have outlined how the golden age trial films accord the courtroom a respect through its formal strategies, including its representation of the courtroom space. The trial sequence of *The Lady from Shanghai* undermines this respectful form through a variety of devices. The design of the courtroom set presents a more claustrophobic space, with the jury box placed closer than is usual to the witness stand and the judge's box. The framing and editing of the sequence emphasises this, keeping the jurors within the frame so that their intrusions into the trial (which I will return to shortly) are also figured through the stylistic choices employed. Low and high angles proliferate through the sequence, and the 'claustrophobic or vertiginous vantage points' and 'chaotic compositions' Justice locates throughout the film are especially apparent in the conventionally more stylistically muted courtroom setting. These angles and compositions defamiliarise the courtroom,

distancing the viewer from convention while refusing to orient them to what is immediately figured as a chaotic space.

This is evident from what could loosely be termed the establishing shots of the courtroom stage. Although the sequence begins with Elsa's entrance into the courtroom, the off-screen voice of Arthur yelling "I object!" corresponds to a cut that transitions into the trial procedure. However, the following shots deny the conventional establishing strategies of giving a legible visual introduction to the trial stage and prioritising the anthropocentric commitment Bordwell et al. identify in the classical style. Arthur's dialogue occurs not with him framed centrally or frontally, but with the camera placed at the back of the courtroom and the figure turned away from the camera, framed in the mid-ground on the far left (Fig. 91). Spectators fill the foreground, the jurors the mid-ground right, and the judge's box the background on the left of the frame. Key elements of courtroom iconography are present, but the composition is messier than conventional trial establishing shots, and the venetian blinds on the right of the frame, which cast shadows on the adjacent wall that are more evocative of noir iconography than court iconography, take up a notable portion of the frame.

A cut brings the spectator closer to the stage, while continuing to distort our perspective on the space and the action. The second shot presents Galloway with the current witness, Officer Peters (Phillip Morris), on the stand. Both are captured from a low angle that places at the very forefront of the frame a glass of water (Fig. 92). Both visual planes are in focus. The framing and composition of these shots, and the unexpected aspects of the *mise-en-scène* (namely the glass and the venetian blinds) work to distance us from the procedural drama and anthropocentric imperatives in order to undermine the typical respect with which the court and its

players are treated. The venetian blinds cast shadows over the judge and witness box so that two sources of potential authority are undermined; as Schrader notes of this particular stylistic noir pattern, '[n]o character can speak authoritatively from a space which is continually being cut into ribbons of light'.⁴⁹³



Fig. 91 (top); Fig. 92 (bottom)

I argued earlier that the golden age trial films avoided stylistic choices that could be considered excessive. The aforementioned distancing devices and the proliferation of high and low angles throughout the trial sequence of *The Lady from Shanghai*, however, draws attention to style over naturalistic presentation. An

⁴⁹³ Paul Schrader, 'Notes on *Film Noir*' [1972] in Silver and Ursini (eds.), *Film Noir Reader*, p. 57.

excess of stylistic devices are employed in order to demonstrate the chaos underlying and undermining the presumed order of the court. Whereas golden age trial films maintained a respectful distance from the action that saw close-ups largely restricted to emotional witness testimonies and reaction shots of key spectators, this scene features a high number of close-ups from the outset, often of minor characters who do not appear elsewhere in the film and whose presence in close-up is typically coupled with a low or high angle that amplifies their grotesqueness. This extensive use of close-ups develops a claustrophobic feeling in which the separation of stage and audience, public and private, order and chaos – all distinctions the trial generally attempts to maintain – is blurred. The camera frequently pushes in extremely close to characters, or has them walk up to the camera (achieving a similar effect) so that spatial boundaries – and their typical meanings – are eroded. A sense of (relative) normality is preserved in the reaction shots of Michael and Elsa, which provides a structure of identification different to the chaotic point of view of the courtroom (as in *Phantom Lady* and *Stranger on the Third Floor*), but this only serves to make the rest of the courtroom look even more grotesquely exaggerated in comparison.

The Players in the Courtroom

I earlier considered how the depictions of the judge and jury in the golden age trial films grant them a primarily symbolic function as embodiments of a working legal system. *The Lady from Shanghai* parallels the representational strategies of the trials in *Stranger on the Third Floor* by undermining this symbolic presence in order to reassert the fallibility of individuals, nearly all of whom are complicit in the madness of the courtroom. Before looking in detail at these characterisations, however, I wish again briefly to consider the narrative contexts

that again distort the spectator's expectations or desires for the trial scene. The pervasiveness of the film's noir world extends to its characterisations; the world it presents is one in which nobody is innocent, and the murkiness of the case's contexts undermine any attempt to desire acquittal or conviction. Elsa and Michael are, considered archetypally, the transgressive couple of noir, but there are no "good" characters to be the subject of a happy outcome. The main distinction made through the characterisations in the court scene is between the madness of the majority and the (relative) sanity of Michael and Elsa.

The Judge

The depiction of the judge (Erskine Sanford) parallels the equivalent characterisation in *Stranger on the Third Floor*, with the personal characteristics presented constructing a negative impression redolent of the trial system's flaws.⁴⁹⁴ In both films the judge's fundamental buffoonery does not indicate malice but rather ignorance (a marked contrast to the depiction of the lawyer). This is exemplified in his coughing fits that consistently intrude upon the trial procedure, and the shot of him failing to stifle his laughter at Arthur's self-examination. The latter, conveyed in one brief close-up, is particularly telling. In the golden age trial film, it is the judge who admonishes the spectatorship for their laughter, directing both diegetic spectators and the film's audience towards an appropriate attitude on proceedings. Here, the judge's failure to do so undermines his objectivity, instead linking him with the spectatorship in a shared susceptibility to what Galloway terms Arthur's "trial tactics". His action of playing chess in his chambers after the main

⁴⁹⁴ The casting of Sanford is important here; one of Welles' staple of character actors, Sanford would have been familiar to audiences as the bumbling newspaper editor Herbert Carter in *Citizen Kane* and is cast to type in his role here.

body of the trial underlines the ‘gamesmanship’ Justice identifies in the sequence and serves as an ironic reminder of the extent to which the absent-minded judge can control the fates of those who are made subject to the court.⁴⁹⁵

The Jury

The spatial configuration of the courtroom allows the jury to figure as more of a presence than in other films, but one that obstructs rather than aids the trial procedure. The sense of the jurors as fallible individuals is emphasised through a range of gestures that draw attention to them negatively. This stands in contrast to the patterns of representing the jury I outlined in my first chapter, where, in order to preserve their affirmative symbolic resonance, the jury was sometimes seen, but never heard.

This is not the case here. The single snoring juror of *Stranger on the Third Floor* becomes a collection of sneezing, laughing and bickering jurors. The placement of the jury box and the framing during examinations not only figure the jurors in the shot but literally places them in between the witness and the attorney, so that even their physical presence appears to obstruct procedure. The sneezing juror in the front row who twice interrupts Galloway’s questioning (Fig. 94), or the juror in the second row who laughs out loud at one of Galloway’s questions, are included within the frame – their intrusion is underlined. Whereas the golden age jury is a silent presence figured as an audience to be won over by the lawyer’s skilled performance,⁴⁹⁶ the noir jury is an inattentive audience at best and an

⁴⁹⁵ One potential influence on the choice to include chess in this sequence might be Lewis Carroll’s novel *Through the Looking Glass* (1871) which uses a central chess motif to construct a deterministic narrative trajectory for the protagonist not dissimilar from the fatalistic narratives of noir (and the absurdity of the Kafkaesque).

⁴⁹⁶ We can compare the intrusive nature of the jury here with the incorporation of the jury into the frame in the witness examination of *The Young Philadelphians*. See Chapter One, page 108.

obstruction to the judicial process at worst. Their refusal to take the process seriously is part of the overall impression that the jury is unsuited to making such an important judgment.⁴⁹⁷



Fig. 93 (top) and Fig. 94 (bottom)

⁴⁹⁷ This impression given a final emphasis in a moment following Michael's climactic escape from the courtroom. This is achieved through both the irony of his method of escape (which involves himself pretending to be a member of the jury), and the function of a female juror whose opinion on a presumably concurrent case, directed at Michael - "That woman is too nice looking to have stolen all that jewellery" – demonstrates the superficial treatment of the criminal act by an untrained jury.

Spectators and Journalists

The strategies employed in representing the jury overlap with those used to represent the courtroom spectators. The treatment of the latter is perhaps the primary component of the sequence's sense of chaos, exaggerating the similar strategies of *Stranger* and *Phantom Lady*. The use of low angles and close-ups during shots of spectators grant them a grotesqueness that exacerbates their portrayal as oglers, completely receptive to the trial tactics of Arthur and Galloway. The spectatorship's sole interest in sensationalism and gossip is prioritised, from the opening moments of the sequence, when an elderly woman shouts "let me look at her" upon Elsa's entrance to the courtroom, up to the brief montage of gossipers when Arthur consents to being examined by Galloway (including the two young women speaking Mandarin, whose presence acts as a source of disorientation while simultaneously suggesting the wide appeal of the case).⁴⁹⁸ When the possibility that Arthur will cross-examine himself becomes apparent, two non-consecutive shots depict jurors leaning forward in their seats in gleeful anticipation (Figs. 95-96). Not only is a sense of ghoulish entertainment prioritised, but the extras in these shots are dressed and framed in order to look similar to each other, a deliberate lack of individualisation which functions to dehumanise the individuals rather than construct, as the non-individualisation of jurors in the golden age trials do, an affirmative symbolic presence. Issues of class are pertinent to the depictions of both jurors and spectators. Their presence, appearance and conduct connotes a lower

⁴⁹⁸ There are two points to be made that relate to the inclusion of minor Chinese characters throughout the film. Firstly, *The Lady from Shanghai* seizes upon the orientalism evident elsewhere in noir, associating East Asia with decadence, degradation, criminality, intrigue and other qualities that relate back to the pervasive badness of the noir world (present in the othered settings of *The Shanghai Gesture* (Dir: Josef von Sternberg, 1941) and *Macao* (Dir: Josef von Sternberg; Nicolas Ray, 1952), for example. Secondly, the decision to present the characters' dialogue without subtitles is another disorienting noir device, also evident in *The Third Man* (Dir: Carol Reed, 1949).

class background. The implication is that the spectators are present because the courtroom is free and they have nowhere better to go (an implication also present in the sparsely attended trial of *Stranger on the Third Floor*).

In my first chapter I outlined how noise from the spectatorship, particularly laughter, when present in the earlier part of the trial sequences but hushed later on (often following a stern warning from the judge) functions to guide the tonal shifts of courtroom trial sequences.⁴⁹⁹ Here, the aural presence of the spectatorship exceeds the bounds of this trope. For example, the laughter of the spectators is exacerbated through the use of reaction shots: the spectator does not only hear it, but sees it in separate shots. This underlines the notion of legal procedure as a show, a frivolous spectacle that only Michael and Elsa seem to treat with any gravity. Murmuring and coughing on the soundtrack is also a constant aural presence, evocative of an unordered, disrespectful courtroom.



Fig. 95 (left) and Fig. 96 (right)

⁴⁹⁹ See Chapter One, page 81-82.

Lawyers

I have already begin to demonstrate how the presentation of the lawyer in *The Lady from Shanghai* offers an exaggerated portrait of the noir lawyer's qualities of corruption and ethical ambivalence. As in any number of traditional courtroom dramas, the trial here places a significant character from the surrounding narrative in the defence attorney role against a flatly characterised prosecuting attorney. But the qualities that Arthur displays outside of the courtroom are resolutely not those associated with the heroic lawyer figure, and thus negatively inflect his depiction during the trial. Arthur's personal involvement in the events that have led to the trial – an implausible involvement that nevertheless correlates with the film's disturbed world and the inescapability of the noir world as theorised by Walker – adds another layer of illegibility that obscures his intentions and even the extent of his involvement in the crime that his client is on trial for.

Presenting the lawyer both in and out of the courtroom offers other possibilities. Depicting the noir lawyer off stage allows the film to dramatize the strategy accompanying courtroom performance and demonstrate the divergence between such trial tactics and the ethics associated with affirmative portrayals of the American legal institution. I have shown that the preceding scene emphasises Arthur's strategizing over any sense of ethics or truth. In this regard, the film parallels the representation of the competing lawyers in *The Postman Always Rings Twice*, whose awareness of the guilt of the couple on trial seems of less importance than their trial tactics and the bet they run between themselves outside of court over which of them will win the case. Similarly, *The Lady from Shanghai* emphasises (as Justice notes) 'gamesmanship' in its dramatization of trial tactics, which also implies a lack of ethical investment.

Arthur's personal qualities are reflected in his physicality. Arthur/Sloane is repeatedly framed in unflattering close-up shots or low angles in the courtroom. The crutches he must use to move around the courtroom stage contrast him with the elegant movements of other heroic lawyer characters – characters who, as I noted earlier, are defined by their greater freedom of movement in the courtroom than any of the other individuals within it. However Arthur's disability also serves the exaggerated characterisation in the contrast it constructs between the wracked body and keen mind. His physicality co-exists with his status as the "greatest living trial lawyer", a professional who has never lost a case. The lawyer's unappealing personal qualities, including their cynicism and seeming lack of empathy, are implicitly bound to their aptitude for the legal profession.⁵⁰⁰ This constitutes a major departure from the conception of the heroic lawyer associated with the golden age trial film.⁵⁰¹ The flat prosecuting attorney, Galloway, is also imbued with suggested sinister qualities, evident in his callous glee at calling Elsa to the stand and his treatment of her during the questioning, which uses close-up reverse shots of the two to construct a sense of predatory intrusion into Elsa's space and personal life.

In accordance with Arthur's status as the "greatest" trial lawyer, we see him doing his job skilfully in the courtroom, but primarily as a game-player rather than a crusader for justice. This involves some adherence to convention; for example, Arthur swiftly undermines the assumptions made by Galloway regarding Officer Peters' marital status. But the overall sense of the lawyering profession given in the

⁵⁰⁰ The defence lawyer in *Angel Face*, who manipulates the jury's and D.A.'s reactions to the defendant couple by insisting they get married, is presented as a morally ambivalent character who is similarly referred to within the dialogue as "just about the best trial man in the country". Moral ambivalence and lawyering excellence are twinned.

⁵⁰¹ See Chapter One, 'A Note on the Justice Figure'.

trial sequence is evidenced in the squabbling between Arthur and Galloway that seems rooted more in personal pride and tactical manoeuvring than the pursuit of justice. Throughout the sequence, Galloway and Arthur appear to be engaged more in a petty competition of showmanship than in a criminal court case.⁵⁰² For example, at one point Galloway and Arthur begin to argue in long shot as Arthur pleads for a mistrial ruling from the judge. A shot in which Arthur approaches the camera as he bickers with Galloway (Fig. 97) is followed by a cut to a medium subjective shot of Galloway (Fig. 98). In their distance and composition (including the distorting effect of the low angles) both shots reconfigure a professional disagreement as a personal one. The exaggerated intensity with which the attorney's disagreement is imbued again distorts an existing trope of the trial scene.



Figs. 97 (top) and 98 (bottom)

The lawyer's status as entertainer is also emphasised and negatively inflected, particularly during Arthur's showboating self-examination, which I will return to. The fact that Arthur is placed in a position where he can cross-examine himself makes evident another inflection of the lawyer characterisation in *The Lady from Shanghai*. Arthur does not only have a personal investment in the case, but an

⁵⁰² The more conventional and respectful method of depicting the professional rivalry is evidenced in the trial scene of *The Young Philadelphians*: see Chapter One, p. 107, Figs. 20-21.

ambiguously situated conflict of interest. Michael's voiceover narration hints at the possibility that Arthur himself may have killed Grisby; likewise, Michael's romantic involvement with Elsa, emerging over the course of the trial sequence, leads Arthur to finally admit "This is one case I've enjoyed losing." The conflict of interest marks a subversion of courtroom drama that is particularly suited to the narrative convolutions of noir (and to a critique of standard depictions of an impartial and collectively legible trial proceeding) and is observable in a number of other examples of law noir.⁵⁰³

The Format of the Trial and the Drama of the Courtroom

I will now examine how these elements inflect the presentation of the trial procedure, and the degree to which the progression of the trial sequence corresponds to the typical construction of courtroom drama. Before doing so, however, I wish to pay a little more attention to an aspect of this trial scene that merits further extrapolation here. These are the presence of what Martin refers to as 'micro-events' that command the spectator's attention to a greater extent than the broader dramatic action.⁵⁰⁴ Although this strategy is apparent across the film, its specific function during the trial (evidenced in a number of aforementioned elements including the aural interjections of the jurors and the frequent cuts to the

⁵⁰³ Other noirs also play with the conflict of interest convention in a number of variations and to different ends, but retaining the crucial element of personal bias and the potentialities for individual manipulation of the trial process. In *Leave Her to Heaven*, the protagonist commits suicide but arranges the act to look like a murder planned by her adopted sister and husband. As part of this scheme, she orchestrates events so that her former fiancé (and former love rival of her husband's) will act as prosecuting attorney and bring his own personal biases to his case. *The File on Thelma Jordan* features an attorney (Wendell Corey) who deliberately sabotages his prosecution of the eponymous Thelma (Barbara Stanwyck), on trial for murder, but with whom he is secretly romantically involved. *Please Murder Me!* features a lawyer who defends his secret lover of her husband's murder in court.

⁵⁰⁴ Adrian Martin, *Mise En Scène and Film Style: from classical Hollywood to new media art*, (Houndmills, Basingstoke, Hampshire; New York: Palgrave Macmillan, 2014), p. 111.

conversations of spectators during the trial) is to disrupt the conventional development of the trial sequence as dictated by the broader format of the trial procedure.

Arrival and Coming to Order

Rather than opening with court coming to order, the viewer arrives at the trial with Elsa, a sense of disorder already conveyed by the noise surrounding her and the attention she receives from the spectatorship (which also establishes the theme of trial-as-spectacle). We are in the midst of trial proceedings, but the witness on the stand, Officer Peters, is a minor character. There is thus an adherence to one convention of the golden age trial film, in that the witnesses presented on the stand escalate in terms of audience identification and dramatic potential.

Testimonies/Examinations and Cross Examinations

Following Peters' testimony, the sequence progresses to its second witness and first outright parody of trial procedure as Galloway calls Arthur to the witness stand. The trope of the surprise witness is not an uncommon one, but calling one of the lawyers in the current case to the stand is a particular – and particularly implausible – inflection that reflects the film's bizarre world. The question of whether Arthur can testify against his own client is raised in the dialogue by spectators, with one stating "I've never seen anything like that before!" This twist on courtroom convention not only escalates the dramatic stakes of the sequences, but also allows the film to parody representations of courtroom drama. The subsequent questioning of Arthur is a farce that focuses less on the examination itself than on the series of obstructions and distractions (the aforementioned micro-

events) that make the trial process unmanageable. A juror, framed between Arthur (sat frame left) and Galloway (stood frame right), laughs at the end of Galloway's first innocuous question, then whispers to the female juror to his right, who shushes him (Fig. 93). At the end of their next exchange, another juror sneezes twice, in both instances interrupting Galloway's follow-up question. The questioning turns to Michael himself. When Arthur is asked if Michael seemed happy in his work for the Bannisters, a series of obstructions occur: Arthur does not hear because Galloway's back is turned, the men talk over each other, and Galloway's inquiries over whether the stenographer has included the preceding interruptions only causes further confusion. The issue of characters talking over one another is again a subversion of the unquestioned conventions of trial depiction, in which procedural and narrative development is predicated upon uninterrupted acts of communication. The play with sound, which I have mentioned has been part of the film's baroque strategies, functions here to draw attention to the assumptions regarding communication that go unquestioned in the majority of other trial scenes. The disruptive noir voice is used to problematize the reliance upon verbal communication in the courtroom.

Thus the examination portion of this witness testimony exists primarily to parody courtroom procedure. The film's tonal qualities do not dictate any viewer investment in the trial until Galloway brings up the fact that Michael was intending to quit his job for the Bannisters prior to Grisby's murder, at which point reaction shot close-ups of Michael and Elsa suggest an escalation of dramatic tension. Galloway mentions that Michael's bags were packed and asks Arthur if, in his experience "as an attorney", this would suggest premeditation. This leads to a shouting match between the two as Arthur pleads for a mistrial, a plea which is

overruled by the judge. An even more bizarre and unlikely twist occurs follows this, constituting the film's most overt parody of the absurdities of both actual courtroom procedure and films' representations of trials. Bannister states that, due to the position he has been placed in, he should be allowed to examine himself. This again raises the interest of the spectators (shown in reaction shots of spectators leaning forward in anticipation as murmuring is heard elsewhere). Galloway refers to these as "trial tactics", but the judge allows it. Arthur's following self-examination is scripted to play on our awareness of the conventions of cinematic courtroom procedure, as when he impatiently asks himself to simply "answer yes or no" after providing a glowing character reference for Michael. His questions and answers provokes the laughter of the courtroom, which demonstrates how farcical the proceedings are, while reaction shots of Elsa and Michael emphasise an opposing gravity. Again the play with courtroom convention has intertwined intents of parodying previous cinematic representation and critiquing the actual legal system upon which it draws.

Galloway then presents a subpoena for another surprise witness – Elsa. Once again, this moment is depicted as a personal sleight through the use of tight framings of Galloway and Arthur that exclude the rest of the courtroom. The inclusion of two surprise witnesses constitutes an excess of narrative drama, exacerbated by the relationship of the witness to the defence attorney, which can again be situated as a parodic exaggeration of courtroom drama convention. With Elsa's placement on the stand, the convention of private lives being wrested into the public sphere moves to the fore of the sequence. Elsa is firstly questioned about Broome, the Bannisters' bodyguard whom Galloway "reveals" in the courtroom was actually a detective working for Arthur (Elsa has informed Michael of this

information in a prior scene). Galloway accuses Elsa of arguing with Arthur over her “infatuation with O’Hara.” From this, the sequence moves into series of reverse shot close-ups of Elsa and Galloway, with particularly tight, claustrophobic framings of Elsa, who eventually cannot deny that she has been seen kissing Michael in public. The sordid truth has emerged and a dejected Arthur has no further questions.

The climactic questioning of Elsa thus seems like the most traditionally presented portion of the trial with respect to narrative convention and mise-en-scène. A revelation that represents a breakthrough in the facts of the case is elicited on the stand, and the use of tight close-ups demonstrates the trial’s intrusion into the personal lives of those involved in the case in a manner that aligns with courtroom convention.⁵⁰⁵ However, it is worth considering the representation of Elsa in the courtroom in relation to her representation elsewhere in the film, the figure of the femme fatale more generally, and the female witnesses of my melodrama case studies. Pippin argues that the representation of Elsa denies her a point of view, stating that her ‘face is often a mask, and the close-ups never do what close-ups are supposed to do, provide a window to the soul’.⁵⁰⁶ Although the close-ups during the climactic portion of her testimony allow some measure of identification with Elsa, Hayworth’s performance does not register anything near the emotional turmoil of the key female witnesses of my melodrama case studies (see Figs. 99-100) and the star is not given a moment of emotional intensity to

⁵⁰⁵ The depiction of Galloway’s questioning of Elsa on her relationship with Michael in particular seems to anticipate the representational strategies of a similar scenario in *Anatomy of a Murder*. Scenes in which District Attorney Claude Dancer (George C. Scott) questions Laura Manion (Lee Remick) on her romantic life also use tight framings on both to construct the attorney as a somewhat predatory figure, similarly emphasising the murky ethics of invoking a witness’s personal life on the stand.

⁵⁰⁶ Robert B. Pippin, *Fatalism in American Film Noir*, p. 65.

perform at the level of either of Lana Turner's trial turns. Elsa's interiority is kept at a distance, in line with the illegibility of law noir, and underlining the film's emphasis on its play with the conventions of trial depiction over the emotional and psychological lives of the characters.⁵⁰⁷ For the same reason, the revelatory quality with which this convention is usually imbued is denied, as the information elicited regarding both Broome's identity and the Michael/Elsa relationship is already known to not only the spectator, but also to the relevant characters. Elsa's examination is thus treated in a manner that subtly denies the spectator the conventional pleasures provided by placing the female witness (and lead female star) on the stand.



Figs. 99 (left) and 100 (right)

Recess

Following Elsa's revelation on the stand, which constitutes the climax of the testimonial portion of the sequence, there is a fade out, followed by a momentary

⁵⁰⁷ Interestingly, Elsa Bannister is an uncommon example of the femme fatale archetype who does take to the stand in the noir courtroom. *The File in Thelma Jordan* and *Angel Face* do not place their female defendants on the stand despite the potential for dramatic event, and *Leave Her to Heaven* presents a femme fatale who is deceased by the time of the trial but who nevertheless seems to be controlling it from beyond the grave for much of the courtroom sequence. It would seem that the conventional function of the female witness, which prioritises the sincere emotional breakdown as a central trope, does not fit with the femme fatale archetype, which is characterised by ambiguity and inscrutability. In fact, *The File on Thelma Jordan* seems to present an ironic subversion of the silence of the female witness of the melodrama, in that the emotional mysteries of "what is in a woman's heart" is presented as a large part of the defence case that is subsequently revealed to be entirely falsified.

departure from the courtroom for what we can assume is the jury's deliberations. The recess does not depict any of our leads, but instead stresses the film's satire of the legal institution. Shots of a group of Chinese men listening to a radio news report on the trial again evokes the sense of it as spectacle for the masses. The following moments in which we glimpse the judge playing chess in his chambers before a cut to a high angle shot makes the overt parallel between game-playing and legal procedure that I discussed earlier.

Verdict

This is followed by another high angle shot of the courtroom, where a deep focus triangular configuration frames Elsa between the two men who have been the rivals for her attention. Here, in the tense moments before the verdict, Arthur admits that he has "enjoyed losing" the case and Michael (in the fatalistic vein of many noir heroes) admits that he has known throughout the trial that Arthur wanted him convicted. A level of narrative clarity has been achieved, but it is in keeping with the project of the sequence that it has occurred outside of the main body of the trial. The film's refutation of the conventional verdict depiction, in which Michael, at Elsa's non-verbal suggestion, downs the bottle of pills on Arthur's desk and is rushed from the courtroom in a final display of chaos, accentuates the film's mistrust in the ability of the courtroom to resolve any issue, and reduces the trial sequence to another of the film's displays of its disturbed, disintegrating world.⁵⁰⁸ The narrative continues without the trial having produced any resolution or closure; as if to underline its irrelevance and the fatalism with which the narrative is imbued,

⁵⁰⁸ Another noir violation of the verdict convention appears in the ironic climax of *They Won't Believe Me*, in which the defendant, convinced that he will be found guilty, attempts to leap from the courtroom window before the verdict is read and is shot to death by a guard. The film ends on a shot of the subsequent "not guilty" verdict being read out by the foreman.

here, the verdict is never even read out. The final developments of the narrative bring to fruition the fate suggested by Michael's shark anecdote as Arthur and Elsa end up destroying each other. The film adheres to noir's structures of resolution, which enact justice outside of a legal framework and in the realms of the personal and criminal.

To conclude, *The Lady from Shanghai* clearly plays with the overwhelming majority of courtroom conventions, exaggerating the patterns of trial violation introduced in earlier noirs. The similarities between the representations and functions of the trials in *Stranger on the Third Floor*, *Phantom Lady*, *Scarlet Street* and *The Lady from Shanghai* situate within noir a dominant attitude towards the trial sequence that overall constitutes a remarkably critical stance on the legal institution within the assumed safety of the classical framework. Noir's violations and essential difference from the majority of classical Hollywood filmmaking is evidenced in its use of the trial form. The disturbed subjectivities of noir's protagonists undermine the ordered and respectful golden age depiction of the law and emphasises, to varying degrees, the flaws of the legal institution. Within this corpus, *The Lady from Shanghai* constitutes the most sustained attack on the court system and the systems of representation used to depict trials in the Hollywood cinema. Martin notes that '[t]here can be so much cinematic business in a Welles scene that it is hard to focus on the basic gestalt, the essential point of what is happening. From a dramaturgical point of view, what is this scene essentially about?'⁵⁰⁹ Considering this quote in relation to the trial, I would argue that this

⁵⁰⁹ Adrian Martin, *Mise En Scène and Film Style*, p. 113.

scene is about the parody and subversion of the trial convention. The use of noir strategies is telling with regards to the subversiveness of the genre. The strategies used elsewhere to critique, challenge or complicate the typically unquestioned belief in American law and justice (in such films as *Fury* and *The Trial*) are the norms of noir's trial depiction. Noir is a form in which violation becomes the norm, and thus a space is opened up within the classical system in which the courtroom convention could be consistently and overtly problematized (albeit with certain concessions of obliqueness and non-naturalism made). Noir's status as an antitraditional form is evidenced in its patterns of representing the courtroom trial.

Conclusion

Where did the trial sequence go? The courtroom trial's appearance as a dramatic centrepiece in mainstream Hollywood cinema is now limited to occasional entries such as *Big Eyes* (Dir: Tim Burton, 2014). Films that could be classified as courtroom dramas are rarer still, the most recent mainstream Hollywood example of the genre (as of this writing) being *The Judge* (Dir: David Dobkin, 2014). The traditional model of the courtroom trial sequence seems to have been exhausted for Hollywood, with intermittent, often underwhelming, exceptions. Rafter notes that the 1970s onwards signalled a 'period of depletion' in trial cinema.⁵¹⁰ One of the reasons for my choice of date range has been that the trial became far less prevalent as a convention with imbued narrative significance from the late 1960s onwards. I propose that two major contexts are responsible for this. The first is the disintegration of the Production Code Administration and the loosening of censorship around Hollywood filmmaking. By the end of the 1960s filmmakers were no longer bound to the enforced models of justice and punishment and affirmative depictions of the American institution that they had been during the years of the PCA, and depictions of the trial system (whether critical or affirmative) were apparently not considered sufficiently interesting when compared to the wealth of other possibilities now available for depiction.

This leads to the second primary context, which was the contemporaneous rise of television in America from the mid-1950s and the subsequent migration of the courtroom drama form to this other medium. There is clearly a sense in which the traditional elements of the trial form, including its embodied closure, its

⁵¹⁰ Nicole Rafter, 'American Criminal Trial Films', p. 18.

boundedness and its grounding in the procedural and formulaic, were perfectly suited to television. The popularity of long-running television courtroom dramas such as *Perry Mason* (1957-1966), *Day in Court* (1958-1965) and *The Defenders* (1961-1965) anticipated the increasing migration of trial material to television. Although the golden age of 1957-62 seemed to incorporate both film and television, it was the televisual courtroom drama that proliferated into the following decades while inversely, the trial film suffered. This migration, when coupled with the aforementioned changes in the Hollywood filmmaking system, signalled a depletion both of the courtroom drama as filmic genre and the use of the trial scene within broader narrative and genre frameworks in Hollywood cinema.

However, although there was a depletion and a migration, forms of trial representation have persisted in smaller numbers throughout the Hollywood cinema of the subsequent fifty years. One pattern saw the trial form employed but imbued with less dramatic and narrative significance than previously, with its central role as a narrative climax particularly devalued. Rafter notes of this period of depletion that ‘seldom did an entire movie build toward a trial scene. Instead, these scenes were now enmeshed in a fabric of other, more animated sequences’.⁵¹¹ A more prevalent model seemed to be that which highlighted legal proceedings redolent of, but adjacent to, the courtroom proper (the deposition that constitutes the narrative framing device of *The Social Network* [Dir: David Fincher, 2010] is one such example), a model which supports the view of the general exhaustion of the trial form in Hollywood narrative, but which continues to utilise its central elements (the adversarial system, the presence of legal professionals as intermediaries of personal disputes). Although I hope my analyses have shown that the trial has always been

⁵¹¹ Ibid., p. 20.

an intertextually constructed narrative form (and thus ever ripe for parody, as *The Lady from Shanghai* demonstrates) it can be sensed that adherences to the conventional trial setting and development in the last several decades are often specifically utilised in contexts of postmodern parody (*Serial Mom* [Dir: John Waters, 1994], *Wild Things* [Dir: John McNaughton, 1998], *Intolerable Cruelty* [Dir: Joel Coen, 2003]).

Nevertheless, I have been struck by how many of the Hollywood films that do feature dramatically significant courtroom trial scenes continue to employ the patterns of representation I have identified in this thesis. The women's melodrama may be thought of as a form that was even more severely depleted by the post-classical Hollywood (or, like the courtroom drama, considered to have migrated to television with the ascent of the televisual soap opera), but its emphasis on the clash between female emotion and the masculinised structures of law, or its depiction of the female whose experience must be translated for the courtroom, is present in films such as *Kramer vs. Kramer* (Dir: Robert Benton, 1979), *The Accused* (Dir: Jonathan Kaplan, 1988) and *Nell* (Dir: Michael Apted, 1994). Similarly, some of the challenges to traditional concepts of American law and justice presented by 'law noir' have persisted in the convoluted narratives and morally ambivalent characterisations of films such as *Primal Fear* (Dir: Gregory Hoblit, 1996) and *Presumed Innocent* (Dir: Alan J. Pakula, 1990). The double-trial structure as conceptualised by Clover, and the fit between the courtroom form and the depiction of topical social issues has persisted. Certain interesting inflections of these underlying patterns have emerged in later depictions. Rafter and Pribram have argued that the justice figure also persists, but in contexts that often render this figure the sole hope for justice within legal and social systems that are otherwise

depicted as broken beyond repair, as in ...*And Justice for All* (Dir: Norman Jewison, 1979). Tellingly, more traditional recourses to the affirmative model appear in comedic fare such as *My Cousin Vinny* (Dir: Jonathan Lynn, 1992) and *Legally Blonde* (Dir: Robert Luketic, 2001).

These consistencies in representation demonstrate that the trial's conventions and their meanings are intertextually constructed and adaptable, and thus I believe that analyses could be conducted of these more recent films using the patterns of representation I have outlined in this thesis. Similarly, the methodology of textual analysis which I have applied to my case studies will doubtless prove productive in considering the specificities of trial representation outside of the bounds of the date range of this thesis. My studies have hopefully demonstrated that paying close attention to a film can demonstrate the nuances and specificities of its use of the trial sequence's form. My research has taught me that, despite the necessitated boundedness of this form, no two trial scenes can ever be identical. A film's uses of the trial form and its conventions must be viewed in light of its other frameworks and strategies. The most successful uses of the trial convention, formally and in terms of their complex relationships to ideologies legal or otherwise, are those made by films that subsume it into their own representational strategies, generic frameworks, and thematic structures (*Madame X*, *Stranger on the Third Floor*). In this vein, I also believe that further work on representations of the trial using my basic methodology of considering the interaction between two generic frameworks in detail would be productive.

Other further work that could be undertaken on the trial involve examining its contextual aspects. Although I have referred to the role of the Production Code Administration throughout the thesis, evaluating the exact role of censorship in

determining representations of the courtroom during this period would require a different, if complementary, approach. I do not find it coincidental that so many of the films I discuss (*Anatomy of a Murder*, *Pinky*, *Peyton Place*, *Scarlet Street*) encountered difficulties with censor boards at various stages of production and reception. The careful navigation of the trial as a safe space for allowing the depiction of sensationalistic or incendiary subject matter in a “respectable” manner is an element of the form that I believe would yield a significant amount of discussion.

My hypothesis, that what we think of as the very limitations of the courtroom trial scene are precisely what can yield productive examination of specific case studies through textual analysis, has been borne out by my readings. I also believe that this thesis has contributed to methods of reading and understanding the depiction of public spaces and events in film. I wish to return to the concept of ‘social mise-en-scène’, as outlined by Adrian Martin, in order to demonstrate this. Martin argues that approaching film analysis through social mise-en-scène ‘allows us to zero in on something specific: known rituals that are recreated, marked, inscribed in the flow of the film, usually in order to be transformed’.⁵¹² I have noticed that the ritualistic elements of the courtroom are often transformed, and accordingly commented upon, by films’ play with point of view and identification. The space is made subject to a multiplicity of viewpoints, sometimes aligned with certain character’s, other times not. But the consistent presence of the legal point of view proffers immediate possibilities for contrast, juxtaposition and even conflicts within the text to be displayed. This is reflected in the variety of ways with which individual films have dealt with the dialectic of

⁵¹² Ibid., p. 134.

emotion and reason that acts as a specific structuring element of the trial scene. The social *mise-en-scène* relates to ideas of communication and courtroom discourse that have proven especially fruitful in determining how films treat the designation of speech, silence and authority in the courtroom. My case studies, even those that affirmed and upheld the American justice system, depicted alongside the overarching discourses of the law a multiplicity of other voices including (but not limited to) the silenced voices of the marginalised defendant, the emotional, female voice of melodrama and the critical voice of noir. The balancing of the legal voice against these other voices was integral to the specificities of each trial scene, and offers a model for reading trial scenes across Hollywood cinema, and beyond, into other cinemas. These various avenues of inquiry attest to the central paradox that a limited form can offer the critic much in its boundless play between the interaction of the individual and the institution.

Appendix: Evidence of the Prevalence of the Conventions of Trial Depiction in Hollywood Cinema

This appendix consists of three tables, one for each of the main subheadings of chapter one. The tables are included to provide examples of the prevalence of the conventions I identify in chapter one by demonstrating how many of the golden age films include each major convention included. Each table is named for the corresponding subheading in that chapter, and conventions are listed in the order in which they appear in the main body of the thesis. I identify the presence of each convention in up to seven of the golden age trial films discussed in chapter one: these films are *Witness for the Prosecution*, *Compulsion*, *Anatomy of a Murder*, *The Young Philadelphians*, *Inherit the Wind*, *Judgment at Nuremberg* and *To Kill a Mockingbird* (listed here and hereafter in rough order of release date). Although I do discuss *12 Angry Men* in chapter one, and continue to consider it an exemplary trial *narrative*, its absence of a conventionally situated trial sequence (bar the brief scene depicting the end of the trial at the beginning of the film) has led me to exclude it from these tables. Where I have deemed it appropriate, I include specific textual detail regarding each film's use a given convention, but the purpose of the appendix has resulted in a primarily quantitative approach.

Table 1: The Conventions Used in Depicting the Space of the Courtroom

Courtroom space conforms to basic layout as identified in Figure 1 (page 56), with some allowance made for limited rearrangement (as described).	<i>Compulsion, Anatomy of a Murder, The Young Philadelphians, Inherit the Wind, To Kill a Mockingbird</i> [jury box placed on far left rather than far right of the courtroom “stage”].
Framing and composition during the main body of the trial sequence consistently includes one or more of the trial’s audiences into the frame	<i>Witness for the Prosecution, Compulsion, Anatomy of a Murder, The Young Philadelphians, Inherit the Wind, Judgment at Nuremberg, To Kill a Mockingbird.</i>
The Judge appears in the same frame as the witness during the latter’s testimony on at least one occasion	<i>Witness for the Prosecution, Anatomy of a Murder, The Young Philadelphians, Inherit the Wind, Judgment at Nuremberg, To Kill a Mockingbird.</i>
The triangular composition featuring witness, judge and lawyer in the frame is employed one at least one occasion	<i>Witness for the Prosecution, Anatomy of a Murder, The Young Philadelphians, Inherit the Wind, Judgment at Nuremberg, To Kill a Mockingbird.</i>
The U.S. Flag is visible within the courtroom in at least one of the trial sequence’s framings	<i>Anatomy of a Murder, The Young Philadelphians, Inherit the Wind, Judgment at Nuremberg, To Kill a Mockingbird.</i> [N/A: <i>Witness for the Prosecution</i>]
At least one stenographer is visible within the film’s courtroom	<i>Witness for the Prosecution, Compulsion, Anatomy of a Murder, The Young Philadelphians, Judgment at Nuremberg, To Kill a Mockingbird.</i>
Non-diegetic scoring is not included in the main body of the trial	<i>Witness for the Prosecution, Compulsion, Anatomy of a Murder, The Young Philadelphians, Inherit the Wind, Judgment at Nuremberg, To Kill a Mockingbird.</i>

Table 2: The Conventions Used in Depicting the ‘Legal Actors’

The judge is featured in at least one isolated symmetrically framed shot that underlines the flat characterisation of this figure	<i>Witness for the Prosecution, Compulsion, The Young Philadelphians, Anatomy of a Murder, Inherit the Wind, Judgment at Nuremberg, To Kill a Mockingbird.</i>
The jury are relatively invisible, characterised through a lack of individualising detail, limited dialogue and screen time, and an absence of close-ups.	<i>Witness for the Prosecution, The Young Philadelphians, Anatomy of a Murder, Inherit the Wind, To Kill a Mockingbird.</i> [N/A: <i>Compulsion, Judgment at Nuremberg</i>]
All lawyer characters (including defence and prosecution counsel) are white males	<i>Witness for the Prosecution, Compulsion, The Young Philadelphians, Anatomy of a Murder, Inherit the Wind, Judgment at Nuremberg, To Kill a Mockingbird.</i>
The courtroom is depicted as physically and audibly crowded during the trial	<i>Witness for the Prosecution, Compulsion, The Young Philadelphians, Anatomy of a Murder, Inherit the Wind, Judgment at Nuremberg, To Kill a Mockingbird.</i>
Laughter from the diegetic spectators appears in the trial sequence, but is absent from the climactic dramatic moments	<i>Witness for the Prosecution, Compulsion, The Young Philadelphians, Anatomy of a Murder, Inherit the Wind.</i>
Murmuring from the courtroom spectators in response to events “on-stage” is present throughout the trial sequence	<i>Witness for the Prosecution, Compulsion, The Young Philadelphians, Anatomy of a Murder, Inherit the Wind, Judgment at Nuremberg, To Kill a Mockingbird.</i>
Judge orders silence from the spectators, verbally and/or through the use of the gavel, at least once during the sequence	<i>Witness for the Prosecution, Compulsion, The Young Philadelphians, Anatomy of a Murder, Inherit the Wind, To Kill a Mockingbird.</i>

Journalists and/or photographers are visibly present in the courtroom during the trial	<i>Compulsion, The Young Philadelphians, Anatomy of a Murder, Inherit the Wind.</i>
At least one character who appears as witness in the trial is characterised as especially vulnerable to experiencing emotional and psychological distress while on the stand (due to any one or more of the following: an expected divulgence of information regarding their private life; an emotional attachment to defendant, plaintiff or victim; a perceived distance from the trial's code of conduct figured through categories of age, race, gender, class or education)	<i>Witness for the Prosecution, Anatomy of a Murder, Inherit the Wind, Judgment at Nuremberg, To Kill a Mockingbird.</i>
The sequence is structured so that there is a progression from "distanced" witnesses (experts, officials, etc.) to witnesses who are more intimately involved with the events/issues/relationships at stake in the trial	<i>Witness for the Prosecution, Compulsion, The Young Philadelphians, Anatomy of a Murder, Inherit the Wind, Judgment at Nuremberg, To Kill a Mockingbird.</i>
The "vulnerable" or intimately involved witness is asked to speak up and/or repeat themselves at a point where they have just divulged particularly personal information to the court.	<i>Compulsion, Anatomy of a Murder, Judgment at Nuremberg.</i>

Table 3: The Conventions of ‘Courtroom/Drama’

Film depicts the process of court coming to order at the outset of a trial sequence (including the arrival of spectators and/or judge, and the formal announcement that “court is in session”)	<i>Anatomy of a Murder, Judgment at Nuremberg, To Kill a Mockingbird.</i>
Sequence contains establishing long shots and/or camera pans that survey the courtroom at the outset	<i>Witness for the Prosecution, Compulsion, The Young Philadelphians, Anatomy of a Murder, Inherit the Wind, Judgment at Nuremberg, To Kill a Mockingbird.</i>
A witness being sworn in on the stand is depicted in full at least once during the trial sequence	<i>Witness for the Prosecution, The Young Philadelphians, Anatomy of a Murder, Inherit the Wind, Judgment at Nuremberg, To Kill a Mockingbird.</i>
The sequence contains at least one surprise witness (with “surprise” identified through the responses of the other characters within the diegesis and the viewer’s prior unawareness of this development)	<i>Witness for the Prosecution, The Young Philadelphians, Anatomy of a Murder, Inherit the Wind.</i>
There is at least one instance of an emotional outburst or breakdown from a witness on the stand	<i>Witness for the Prosecution, Inherit the Wind, Judgment at Nuremberg, To Kill a Mockingbird.</i>
There is at least one instance of an outburst or breakdown that occurs from an individual who is not on the witness stand but who is acting in response to the action taking place in the trial	<i>Witness for the Prosecution</i> [defendant cries out in response to one witnesses’ testimony], <i>Compulsion</i> [defendant collapses at the end of one witnesses’ testimony], <i>Anatomy of a Murder</i> [defendant cries out in response to one witnesses’ testimony], <i>Judgment at Nuremberg</i> [defendant addresses the defence counsel during another witnesses’ testimony in protest of the witnesses’ treatment].
Lawyer’s objections (and the judge’s rulings on these objections) are depicted on multiple occasions during the sequence, acting as a structuring dramatic event	<i>The Young Philadelphians, Anatomy of a Murder, Inherit the Wind, Judgment at Nuremberg.</i>
Sequence contains a climactic speech from a legal professional character	<i>Compulsion, Judgment at Nuremberg, To Kill a Mockingbird.</i>

<p>A jury foreman stands and delivers the verdict to the court near the end of the sequence.</p>	<p><i>Witness for the Prosecution, The Young Philadelphians, Anatomy of a Murder, To Kill a Mockingbird.</i></p> <p>[N/A: <i>Compulsion, Judgment at Nuremberg</i>]</p>
<p>The film ends in or around the courtroom, in a manner that situates the court as a site of resolution and closure, and implies the possibility of justice through the law, regardless of the outcome of the case on trial.</p>	<p><i>Witness for the Prosecution, Compulsion, The Young Philadelphians, Inherit the Wind.</i></p>

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Dust Be My Destiny (Dir: Lewis Seiler, Warner Bros., USA, 1939).

Falsely Accused! (Dir: G.W. Bitzer, American Mutoscope & Biograph, USA, 1908).

The File on Thelma Jordan (Dir: Robert Siodmak, Hal Wallis Productions, USA, 1950).

The Firm (Dir: Sydney Pollack, Davis Entertainment / Mirage Enterprises / Paramount Pictures / Scott Rudin Productions, USA, 1993).

Force of Evil (Dir: Abraham Polonsky, Enterprise Pictures / Roberts Pictures Inc., USA, 1948).

Four Daughters (Dir: Michael Curtiz, Warner Bros., USA, 1938).

Fury (Dir: Fritz Lang, MGM, USA, 1936).

Gentlemen Prefer Blondes (Dir: Howard Hawks, Twentieth Century Fox, USA, 1953).

Gentlemen's Agreement (Dir: Elia Kazan, Twentieth Century Fox, USA, 1947).

The Grapes of Wrath (Dir: John Ford, Twentieth Century Fox, USA, 1940).

The Great Lie (Dir: Edmund Goulding, Warner Bros., USA, 1941).

Gun Crazy (Dir: Joseph H. Lewis, King Brothers Productions, USA, 1950).

His Kind of Woman (Dir: John Farrow, RKO, USA, 1951).

Home from the Hill (Dir: Vincente Minnelli, Sol C. Siegel Productions, USA, 1960).

Home of the Brave (Dir: Mark Robson, Stanley Kramer Productions, USA, 1949).

I, Confess (Dir: Alfred Hitchcock, Warner Bros., USA, 1953).

I'm No Angel (Dir: Wesley Ruggles, Paramount Pictures, USA, 1933).

Imitation of Life (Dir: John M. Stahl, Universal, USA, 1934).

Imitation of Life (Dir: Douglas Sirk, Universal, USA, 1959).

Inherit the Wind (Dir: Stanley Kramer, Stanley Kramer Productions, USA, 1960).

Intolerable Cruelty (Dir: Joel Coen, Universal Pictures / Imagine Entertainment / Alphaville Films / Mike Zoss Productions, USA, 2003).

Intruder in the Dust (Dir: Clarence Brown, MGM, USA, 1949).

The Iron Curtain (Dir: William A. Wellman, Twentieth Century Fox, USA, 1948).

I Want to Live! (Dir: Robert Wise, Figaro, USA, 1958).

Johnny Belinda (Dir: Jean Negulesco, Warner Bros., USA, 1948).

The Judge (Dir: David Dobkin, Warner Bros. / Big Kid Pictures / Team Downey / Village Roadshow Pictures, USA, 2014).

Judgment at Nuremberg (Dir: Stanley Kramer, Roxlom Films Inc., USA, 1961).

The Killers (Dir: Robert Siodmak, Mark Hellinger Productions / Universal, USA, 1946).

Kings Go Forth (Dir: Delmer Daves, Frank Ross-Eton Productions, USA, 1958).

Kiss Me Deadly (Dir: Robert Aldrich, Parklane Pictures Inc., USA, 1955).

Kramer vs. Kramer (Dir: Robert Benton, Columbia Pictures, USA, 1979).

The Lady from Shanghai (Dir: Orson Welles, Columbia Pictures, USA, 1947).

Leave Her to Heaven (Dir: John M. Stahl, Twentieth Century Fox, USA, 1945).

Legally Blonde (Dir: Robert Luketic, MGM / Marc Platt, USA, 2001).

The Locket (Dir: Robert Brahm, RKO, USA, 1946).

Love Has Many Faces (Dir: Alexander Singer, Columbia Pictures, USA, 1965).

Lost Boundaries (Dir: Alfred L. Werker, Louis de Rochemont Associates / RD-DR Productions, USA, 1949).

The Lost Weekend (Dir: Billy Wilder, Paramount Pictures, USA, 1945).

Macao (Dir: Josef Von Sternberg; Nicolas Ray, RKO Radio Pictures, USA, 1952).

Madame X (Dir: George F. Marion, Henry W. Savage Inc., USA, 1916).

Madame X (Dir: Frank Lloyd, Goldwyn Pictures Corporation, USA, 1920).

Madame X (Dir: Lionel Barrymore, MGM, USA, 1929).

Madame X (Dir: Sam Wood, MGM, 1937).

Madame X (Dir: David Lowell Rich, Universal / Ross Hunter Productions / Eltee, USA, 1966).

The Maltese Falcon (Dir: John Huston, Warner Bros., USA, 1941).

Miracle on 34th Street (Dir: George Seaton, Twentieth Century Fox, USA, 1947).

Mr. Deeds Goes to Town (Dir: Frank Capra, Columbia, USA, 1936).

My Cousin Vinny (Dir: Jonathan Lynn, Palo Vista Productions / Peter V. Miller Investment Corp. / Twentieth Century Fox, USA, 1992).

Nell (Dir: Michael Apted, Egg Pictures / PolyGram Filmed Entertainment / Twentieth Century Fox, USA, 1994).

The Night of the Hunter (Dir: Charles Laughton, Paul Gregory Productions, USA, 1955).

Oklahoma! (Dir: Fred Zinneman, Magna Theatre Corporation / Rogers & Hammerstein Productions, USA, 1955).

Out of the Past (Dir: Jacques Tourneur, RKO, USA, 1947).

Outrage (Dir: Ida Lupino, The Filmmakers, USA, 1950).

The Ox-Bow Incident (Dir: William A. Wellman, Twentieth Century Fox, USA, 1943).

The Paradine Case (Dir: Alfred Hitchcock, Vanguard Films / The Selznick Studio, USA, 1953).

The Pelican Brief (Dir: Alan J. Pakula, Warner Bros., USA, 1993).

Peyton Place (Dir: Mark Robson, Twentieth Century Fox / Jerry Wald Productions, USA, 1957).

Phantom Lady (Dir: Robert Siodmak, Universal, USA, 1944).

Philadelphia (Dir: Jonathan Demme, Tristar Pictures / Clinica Estetico, USA, 1993).

Pinky (Dir: Elia Kazan, Twentieth Century Fox, USA, 1949).

Please Murder Me! (Dir: Peter Godfrey, Gross-Krasne Productions, USA, 1956).

Portrait in Black (Dir: Michael Gordon, Ross Hunter Productions Inc., USA, 1960).

The Postman Always Rings Twice (Dir: Tay Garnett, MGM, USA, 1946).

Presumed Innocent (Dir: Alan J. Pakula, Warner Bros. / Mirage Enterprises, USA, 1990).

Primal Fear (Dir: Gregory Hoblit, Paramount Pictures / Rysher Entertainment, USA, 1996).

Random Harvest (Dir: Mervyn LeRoy, MGM, USA, 1942).

The Return of Frank James (Dir: Fritz Lang, Twentieth Century Fox, USA, 1940).

Return to Peyton Place (Dir: Jose Ferrer, Jerry Wald Productions, USA, 1964).

Scarlet Street (Dir: Fritz Lang, Fritz Lang Productions / Diana Production Company, USA, 1945).

Serial Mom (Dir: John Waters, Polar Entertainment Corporation, USA, 1994).

The Shanghai Gesture (Dir: Josef Von Sternberg, Arnold Pressburger Films, USA, 1941).

The Sin of Madelon Claudet (Dir: Edgar Selwyn, MGM, USA, 1931).

Smart Woman (Dir: Edward A. Blatt, Constance Bennett Productions, USA, 1948).

The Snake Pit (Dir: Anatole Litvak, Twentieth Century Fox, USA, 1948).

The Social Network (Dir: David Fincher, Columbia Pictures / Relativity Media / Scott Rudin Productions / Michael De Luca Productions / Trigger Street Productions, USA, 2010).

Spellbound (Dir: Alfred Hitchcock, Selznick International Pictures / Vanguard Films, USA, 1945).

Splendor in the Grass (Dir: Elia Kazan, Warner Bros. / Newton Productions, USA, 1961).

Stella Dallas (Dir: Henry King, The Samuel Goldwyn Company, USA, 1925).

Stella Dallas (Dir: King Vidor, The Samuel Goldwyn Company, USA, 1937).

The Stranger (Dir: Orson Welles, International Pictures / The Haig Corporation, USA, 1946).

Stranger on the Third Floor (Dir: Boris Ingster, RKO, USA, 1940).

The Tattered Dress (Dir: Jack Arnold, Universal International, USA, 1957).

They Made Me a Criminal (Dir: Busby Berkeley, Warner Bros., USA, 1939).

They Won't Believe Me (Dir: Irving Pichel, RKO, USA 1947).

The Third Man (Dir: Carol Reed, Carol Reed's Production / London Film Productions, UK, 1949).

To Each His Own (Dir: Mitchell Leisen, Paramount Pictures, USA, 1946).

To Kill a Mockingbird (Dir: Robert Mulligan, Universal International / Pakula-Mulligan / Brentwood Productions, USA, 1962).

Touch of Evil (Dir: Orson Welles, Universal International, USA, 1958).

Trial (Dir: Mark Robson, MGM, USA, 1955).

The Trial (Dir: Orson Welle, Paris-Europa Productions / Hisa-Film / Finanziaria Cinematografica Italiana (FICIT), France/West Germany/Italy, 1962).

The Trial of Mary Dugan (Dir: Bayard Veiller, MGM, USA, 1929).

Valerie (Dir: Gerd Oswald, Hal R. Makelim Productions, USA, 1957).

The Verdict (Dir: Sidney Lumet, Twentieth Century Fox, USA, 1982).

Where Danger Lives (Dir: John Farrow, RKO, USA, 1950).

Where Love Has Gone (Dir: Edward Dmytryk, Joseph E. Levine Productions / Embassy Pictures, USA, 1964).

Wild Things (Dir: John McNaughton, Mandalay Entertainment, USA, 1998).

Witness for the Prosecution (Dir: Billy Wilder, Edward Small Productions, USA, 1959).

The Wizard of Oz (Dir: Victor Fleming, MGM, USA, 1939).

Written on the Wind (Dir: Douglas Sirk, Universal International, USA, 1956).

The Wrong Man (Dir: Alfred Hitchcock, Warner Bros., USA, 1956).

You Can't Take it With You (Dir: Frank Capra, Columbia Pictures, USA, 1938).

You Only Live Once (Dir: Fritz Lang, Walter Wanger Productions, USA, 1937).

Young Mr. Lincoln (Dir: John Ford, Twentieth Century Fox, USA, 1939).

The Young Philadelphians (Dir: Vincent Sherman, Warner Bros., USA, 1959).

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Day in Court (ABC, USA, 1958-1965).

The Defenders (CBS, USA, 1961-1965).

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Perry Mason (CBS, USA, 1957-1966).

Peyton Place (ABC, 1964-1969).

The Rifleman (ABC, USA, 1958-1963).